S. HRG. 98-894

DAYTIME BROADCASTING ISSUES

HEARINGS

BEFORE THE

SUBCOMMITTEE ON COMMUNICATIONS

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 880

TO AMEND THE COMMUNICATIONS ACT OF 1934 TO PROVIDE EQUITY TO DAYTIME RADIO BROADCASTERS

APRIL 3 AND 14, 1984

Serial No. 98-89

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DAYTIME BROADCASTING ISSUES

TUESDAY, APRIL 3, 1984

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON COMMUNICATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room SR-232A, Russell Senate Office Building, Hon. Barry Goldwater (chairman of the subcommittee) presiding.

Staff members assigned to these hearings: Dan Phythyon, staff counsel, and Cheryl Wallace, minority staff counsel.

OPENING STATEMENT BY SENATOR GOLDWATER

Senator GOLDWATER. The meeting will come to order.

I would like to welcome you to the Communications Subcommittee hearings on daytime broadcasting issues and S. 880, the Daytime Broadcasters Act.

Some of you may be wondering why we are holding these hearings now, since S. 880 was reported out of the Commerce Committee last summer. The answer is that in September, the Federal Communications Commission issued an order revising its regulations on daytime broadcasting. We thought we would take another look at this issue to decide whether or not we should push forward with legislation, and we wanted to give everyone another chance to present their views to the subcommittee.

Spectrum allocation issues are always complicated, and daytime broadcasting is no exception. I think most people sympathize with the daytimers. They often are small stations, and they do their best to provide good local radio service. The question is, in light of the physical properties of AM signals, how do we help the daytimers. Who is best equipped to do this? Is it the Congress, or is it the FCC?

I think these hearings will help us sort out the answers to those questions.

This is a very interesting subject. I can remember back in the 1930's when broadcasting began to come under the control of the Federal Government. We had the amplitude modulated signal, which really has two signals, the groundwave signal and the skywave signal. Groundwaves provide more dependable transmission, but their reach is limited.

Skywaves at night become a better signal, but not as dependable. They are bounced off the ionosphere, as you know, and can come back to Earth many, many, many miles away from the station's best efforts during the daytime. I can recall during parts of World

War II, for example, being able to pick up Salt Lake City while flying over the Hump in China.

So, what we are getting into today is something I think we should have gotten into a long time ago. I want to congratulate Senator Pressler, who is the granddaddy of this effort. He has had the foresight to see the changes that I think can be considered and should be considered. We are holding these hearings here today, and then Senator Pressler will chair a field hearing in South Dakota.

I apologize for having to leave early, but a subject of far more interest than radio, believe it or not, is coming up this morning. It involves water, and in Arizona water is more important. In Arizona, we will fight for gold, water, and women in about that order.

So, Larry, I will turn the whole thing over to you.

OPENING STATEMENT BY SENATOR PRESSLER

Senator PRESSLER. Thank you, Barry. I know you have been out to South Dakota recently, where we talked about this. Your opening statement pretty much frames the issue. Times are changing, and what was set up in the 1930's may well be ready for change. I want to thank you for your leadership, and your help in managing our field hearing, which will be held in South Dakota in about a week or two.

I am pleased to be the original sponsor of S. 880, the Daytime Broadcasters Act. S. 880 is currently cosponsored by Senators Goldwater, Boschwitz, Melcher, D'Amato, Burdick, Andrews, Abdnor, Durenberger, DeConcini, McClure, Heflin, Lugar, and others.

This legislation will benefit two important groups of Americans, small businessmen who own and operate daytime AM radio stations, and the audiences they serve, primarily Americans in small towns and rural communities. Of special interest to my colleagues here is the fact that S. 880 follows the general broadcast deregulation policies of the Commerce Committee. In fact, S. 880 is deregulation for the little guy.

There are 2,300 daytime AM radio stations in this country. They are well represented here today. Their stations are restricted to daytime only broadcasting, for reasons which are no longer valid.

In the 1930's, as the radio industry was just beginning, the FCC determined that the best way to encourage national radio service was to license a few large, clear channel stations to provide programing over large service areas. As more and more radio stations were licensed, the Commission authorized local daytime radio service on these clear channel frequencies but prohibited nighttime service in order to protect the skywave signal of the clear channel stations.

Today there are 59 clear channel stations, and a total of 4,708 commercial AM radio stations. Skywave signal protection of these few big stations has inhibited the service and financial growth of hundreds of smaller local radio stations. This protection, perhaps valid 50 years ago, is no longer justified for several reasons, and I will summarize these for the record.

First of all, the broadcasting industry has expanded dramatically in the last decades. Today there are hundreds of radio and televi-

sion stations in operation. As this committee knows, the coming years will see even more diversity in programing as the low power TV and direct broadcast satellite industries are developed. Americans do not need to rely on a few big radio stations located hundreds of miles away when several local broadcasting outlets are available.

Second, our national communications policy encourages local broadcast service wherever possible. If given a choice, Americans generally will prefer local radio coverage of community events, weather and road conditions, and municipal government activities. An extension of daytime radio service is particularly useful to rural Americans. Farmers and ranchers need timely weather reports.

Rural families want school and community announcements. For many South Dakotans, this is a very serious issue. Local school closings and emergency weather information can only be provided by many of these daytime stations. I am keenly aware of this difficulty.

Recently, when traveling from one part of my State to another, I had trouble getting the local road conditions. My radio could bring in Utah or Tennessee, but not Milbank, SD. Small town Americans are entitled to the same on-the-spot news coverage and weather information as that provided in urban areas.

So, in closing, I would say that the skywave signal immediately before sunrise and immediately after sunset is weak. Our national communications policy should advocate increased local broadcast service, rather than continue the protection of the skywave signal during its least effective time.

S. 880 accomplishes several deregulatory goals. This legislation expands daytimers' operating hours an additional 2 hours before sunrise and 2 hours after sunset if two conditions are met. This expansion cannot cause objectionable interference to the groundwave signals of existing AM stations. Also, this expansion must be consistent with international agreements to which our Government is a party.

S. 880 is consistent with the philosophy of this committee. Thousands of Americans will receive more local radio service and hundreds of small radio station owners and managers will achieve a stronger financial base and a wider listening public.

In September 1983, the Federal Communication Commission released a decision in Docket No. 82-538 which had been billed as relief for the daytimers. The demonstrated success of daytime-only stations in providing service during the presunrise period of the morning shall have provided adequate evidence that similar operation in the postsunset period would be likwise acceptable. Unfortunately, in almost every case, the power provided by the FCC has proven to be disappointing limited. Many daytimers were informed that they could use power of only 20 to 30 watts postsunset under the September decision. Almost half of the daytime stations will be required to operate with less than 50 watts of powersunset and 98 daytime stations will have to remain completely off the air during the postsunset period.

The bill has been favorably reported by this committee, and is now awaiting full consideration. Those trying to thwart our

progress in gaining that consideration say that more hearings are needed. This is not necessarily true, although we have scheduled hearings today and later in South Dakota.

Expanding hours for daytimers has been the subject of several hearings in both Houses. Opponents and proponents have had the chance to make their arguments. The changes which will be achieved by the passage of S. 880 are long overdue. Thirty years of improvements in radio communications make it clear that regulations needed in the 1950's are no longer necessary.

I urge the speedy passage of S. 880.

[The bill follows:]

II

Calendar No. 263

98TH CONGRESS
1ST SESSION

S. 880

[Report No. 98–165]

To amend the Communications Act of 1934 to provide equity to daytime radio broadcasters.

IN THE SENATE OF THE UNITED STATES

MARCH 22 (legislative day, MARCH 21), 1983

Mr. PRESSLER (for himself, Mr. BOSCHWITZ, Mr. BURDICK, Mr. ANDREWS, Mr. D'AMATO, Mr. DECONCINI, Mr. MELCHER, Mr. HEFLIN, Mr. DURENBERGER, Mr. MCCLURE, and Mr. ABDNOR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JUNE 27, 1983

Reported by Mr. PACKWOOD, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Communications Act of 1934 to provide equity to daytime radio broadcasters.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

~~That section 307(b) of the Communications Act of 1934 is amended by adding at the end thereof the following new sen-~~

tence: "The Commission may not restrict the hours of operation or reduce the operating power of any AM broadcast station if (1) such restriction has the effect of prohibiting such station from operating at full daytime power during the period which begins two hours immediately preceding sunrise and ends two hours immediately following sunset in the area in which such station is located and (2) operation during such period would not unduly intefere with the protected groundwave signal of a then existing AM broadcast station.".

SEC. 2. (a) Section 309 of such Act is amended by adding at the end thereof the following new subsections:

"(j) the Commission may not deny an application for a license to operate a new AM broadcast station or deny an application to expand the hours of operation of such a station under a then existing license solely on the grounds that—

"(1) the area to be served under the license has adequate radio broadcasting service, or

"(2) an FM broadcast channel is available for assignment to the area to be served under the application.

"(k) If there is more than one application for any initial license or construction permit, the Commission may not place an applicant at a disadvantage solely on the basis that such applicant is licensed to operate a standard broadcast station with restricted hours in the area to be served under the pend-

~~ing application if such applicant certifies it will relinquish such restricted license if the pending application is approved.".~~

~~(b) Section 390 of such Act is further amended by inserting the following new subsection after subsection (c) and by redesignating subsections (d) through (k) as subsections (e) through (l), respectively:~~

~~"(d) For purposes of subsection (c), any application to alter the hours of operation of a standard broadcast station shall be deemed a minor change in the facilities of such station.".~~

That section 307(b) of the Communications Act of 1934 is amended by adding at the end thereof the following new sentence: "The Commission may not restrict the hours of operation of any AM broadcast station during the period which begins 2 hours immediately preceding sunrise and ends 2 hours immediately following sunset in the area in which such station is located, unless such operation during such period would cause objectionable interference to the protected ground-wave signal of a then existing AM broadcast station, or would violate any treaty or international agreement to which the United States is a party.".

SEC. 2. (a) Section 309 of such Act is amended by adding at the end thereof the following new subsections:

"(j) The Commission may not deny an application for a license to operate a new AM broadcast station or deny an application to expand the hours of operation of such a station under a then existing license solely on the grounds that—

"(1) the area to be served under the license has adequate radio broadcasting service, or

"(2) an FM broadcast channel is available for assignment to the area to be served under the application.

"(k) If there is more than one application for any initial license or construction permit, the Commission may not place an applicant at a disadvantage solely on the basis that such applicant is licensed to operate a standard broadcast station with restricted hours in the area to be served under the pending application if such applicant certifies it will relinquish such restricted license if the pending application is approved.".

(b) Section 309 of such Act is further amended—

(1) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively;

(2) by striking "subsection (e)" in subsection (e), as so redesignated, and inserting in lieu thereof "subsection (f)"; and

(3) by inserting the following new subsection after subsection (c):

"(d) For purposes of subsection (c), any application to alter the hours of operation of a standard broadcast station shall be deemed a minor change in the facilities of such station.".

Senator GOLDWATER. Would the Senator yield? We have some Senators and Members of Congress here, today, Senators Boschwitz and Abdnor, and Congressman Vin Weber, who would like to testify. Senator Boschwitz, would you like to lead off?

STATEMENT OF HON. RUDY BOSCHWITZ, U.S. SENATOR FROM MINNESOTA

Senator BOSCHWITZ. Thank you, Mr. Chairman.

It is so appropriate in considering matters dealing with radio that we have you as chairman of the subcommittee because indeed you are well known as an expert in radio matters. I have gone by your house in Phoenix, and it looks like it has hair on top, with all the antennas. Something must be going on inside there.

Senator GOLDWATER. That is a sore subject at home.

Senator BOSCHWITZ. Sorry I brought it up.

I come before your committee, Mr. Chairman, with two purposes. First, as an original cosponsor of Senator Pressler's Daytime Broadcasters Act, and second, to introduce my good friend from Worthington, MN, Mr. Jim Wychor, the vice president and general manager of KWOA radio and president of the Daytime Broadcasters Association. I also want to introduce Representative Vin Weber, formerly my administrative asssistant and now the Congressman from the southwestern part of Minnesota, the area Mr. Wychor's station serves.

I might say, Mr. Chairman, I come to this subcommittee not knowing much about the radio business, but in my business career I spent probably $1 million or $2 million advertising on the radio. I should have done it on TV, but I do not think I will bring that up right here.

Mr. Chairman, a little over a year ago, Senator Pressler and I introduced S. 880, a bill directing the Federal Communications Commission to extend the operating hours of AM daytime radio stations. This bill will provide, as Senator Pressler pointed out, increased local radio service to communities served by the 2,300 daytime radio stations. Senator Pressler pointed out all the advantages such as sports coverage of local high schools that people like Jim Wychor cannot now cover if it is after sunset.

In Minnesota, the wintertime broadcast hours may be 8½ hours a day for these daytime radiostations. You have heard the arguments about the need for early morning and evening local weather. That information is particularly important to a northern State like Minnesota, where the days are quite short in the wintertime.

Mr. Chairman, I hope the bill can move forward quickly. I commend Senator Pressler for introducing the bill, and you for your cosponsoring bill as well, which is very important to its success. This is an important issue that has been going on for as long as I have been in the Senate. It would be my hope that we are able to bring the bill forward this year and pass it. If we do in the Senate, Congressman Weber has assured me that he will take care of the House.

So, it really is a pleasure to introduce both Congressman Vin Weber, and Jim Wychor. Congressman Weber has been in the communications business—his family has owned a small newspaper in

Slayton, a town just somewhat north of Worthington. Also Jim Wychor, who not only is a well known person in the radio business, but who is really a distinguished Minnesotan who takes very good care to see that people in his area get a very well balanced viewpoint of the news. Thank you, Mr. Chairman. I would like to introduce Congressman Weber.

[The statement follows:]

STATEMENT OF HON. RUDY BOSCHWITZ, U.S. SENATOR FROM MINNESOTA

Mr. Chairman, I come before your committee today for two purposes, first as an original sponsor, with our colleague Senator Pressler, of the Daytime Broadcasters Act, and second to introduce my good friend from Worthington, Minnesota, Mr. Jim Wychor, Vice President and General Manager of KWOA radio and also President of the Daytime Broadcasters Association.

Mr. Chairman, a little over one year ago Senator Pressler and I introduced S. 880, a bill directing the Federal Communications Commission to extend the operating hours of AM daytime radio stations. This bill will provide increased local radio service to the communities served by the nations 2300 daytime stations. The local communities will benefit by: receiving early morning and evening local weather and road reports, local high school sports coverage, and school closing announcements and other local radio services.

Mr. Chairman, those of us from the north may have a clearer understanding of the need for this legislation. During the winter months in Minnesota, sunrise to sunset service can be a short day. Local reports of winter road conditions and school closings are often needed in a timely manner.

Mr. Chairman, I am hopeful this bill can move forward. I am pleased that the distinguished Chairman of the Communications Subcommittee (Senator Goldwater) has agreed to cosponsor. That should be a big help to our efforts. As you know, the bill was reported out by the Commerce Committee last June. The push for its consideration was slowed by the FCC's review of this problem. However, last fall's decision by the FCC fell short of the equity we seek for those broadcasters and their listeners. I understand the FCC is scheduled to review this issue again next week. I hope the results will be more favorable.

Mr. Chairman, you have an opportunity to hear directly from one of my closest advisors on this and other broadcasting issues, Jim Wychor. As I mentioned before, Jim is the Vice President and General Manager of KWOA radio in Worthington, Minnesota. He is also the President of the Daytime Broadcasters Association. He is an expert in the radio business and also about the problems encountered by daytimers. I am very pleased to introduce him to you.

Senator GOLDWATER. Senator Pressler is now the chairman.

Senator PRESSLER [presiding]. I have just been promoted. I have received a battlefield promotion.

Senator GOLDWATER. It does not involve any more pay.

Senator PRESSLER. It is a reserve commission which fades when the war is over.

Next we will hear from Congressman Weber.

STATEMENT OF HON. VIN WEBER, U.S. REPRESENTATIVE FROM MINNESOTA

Mr. WEBER. Thank you, Mr. Chairman, recently to become Mr. Chairman.

I would like to just build on what Senator Boschwitz said. As you know, I am the sponsor of legislation similar to S. 880 in the House of Representatives. To date 74 of my colleagues have joined me in supporting this legislation by cosponsoring my bill, H.R. 2385.

I will not take a lot of the committee's time discussing the specifics of this legislation. There are individuals here who have the technical expertise as well as the practical experience on this subject to address those issues far better than I could, and as Senator

Boschwitz pointed out, Senator Goldwater is probably technically proficient on this more than anybody on the panel.

I would like to talk a little bit about this issue, speaking as someone who grew up in a small southwest Minnesota community in the district I now serve. I currently represent the Second District of Minnesota in Congress.

Daytime broadcasters are an essential ingredient in rural American life. It is this type of station, Mr. Chairman, which supplies rural communities with coverage of local governmental meetings, school closings, which are very important in States like South Dakota and Minnesota in the winter, community events, and most importantly, again, weather reports.

These radio stations provide small communities with information which is vital to local residents. As Senator Boschwitz mentioned, one of the witnesses scheduled to testify to my right is my really lifetime close personal friend, Jim Wychor, who is vice president of KWOA radio in Worthington, and president of the Daytime Broadcasters Association.

His station, KWOA in Worthington, has provided this essential community service to Worthington as well as to my community of Slayton for many, many years, and really in many ways Jim Wychor as an individual as well as KWOA radio as a station represent perfectly the point I am trying to make. Jim is an individual who has spent his whole life serving his community in many, many ways. KWOA radio serves its community and the community of southwest Minnesota in many vital ways.

I should add also, Mr. Chairman, although this is not a partisan issue, Jim Wychor has also served up a regular dish of editorials on his morning broadcasts that helped make me into a Republican Congressman, and he may even have had a few favorable things to say about a certain Presidential candidate in 1964. I would not want to bias the committee's judgment, but those editorials, I think, would be very in keeping with the tune and philosophy of this committee.

This legislation, Mr. Chairman, would add two hours of broadcast time before sunrise and 2 hours after sunset. This additional service would benefit rural residents at no one's expense. I am sure many of you and Senator Pressler know personally about the long winters that we suffer in Minnesota in the upper midwest. In midwinter, sunset occurs as early as 4:30 p.m. It is indefensible to force these stations off the air at a time when people are leaving from work and schools letting out. This is the time when daytimers can most benefit the communities which they serve. There are local daytime broadcasters like Jim Wychor who are eager to bring a little extra service to the community, but outdated rules of the FCC are preventing him from doing so.

Mr. Chairman, this is a matter of basic fairness. It is clear that what this legislation would do is promote better service to the communities which daytimers serve. The broadcasting industry is going through constant evolution, as Senator Pressler mentioned, because of technological innovations. It is time that the FCC realized that the rules promulgated in the 1980's just did not make any sense in the 1980's.

It is ironic that people in southwest Minnesota can enjoy live satellite broadcasts of sporting events, but cannot have their local high school football game aired because no local radio service is available.

Mr. Chairman, I hope you will act quickly and favorably on this legislation. I have spoken to both majority and minority members of the House Energy and Commerce Committee about this legislation. I have received assurances that it will be considered in the omnibus deregulation bill, assuming the various sides can come to an agreement on a legislative package, and of course, given the Byzantine nature of the House Energy and Commerce Committee, that is a big qualification, but we are hopeful nonetheless.

From the discussions I have had with these members, it is clear to me that this legislation does indeed enjoy strong support on the House side, and I believe that speedy action by your committee would greatly enhance its chances on the House side.

I thank you for allowing me the opportunity to testify before the committee.

Senator PRESSLER. Thank you very much.

Senator Abdnor, would you like to be recognized?

Senator ABDNOR. Mr. Chairman, I would like to bring up John Goeman.

Senator PRESSLER. Good. Come on up.

STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM SOUTH DAKOTA

Senator ABDNOR. Mr. Chairman, I am just along to show my support for Senator Pressler's efforts. Since this is your bill and you brought Mr. Goeman in, I do not want to take away the privilege of introducing the distinguished witness here.

Senator PRESSLER. That is fine, and we appreciate your support. We are going to call on John after we hear from Jim McKinney, but I appreciate your being here.

Senator ABDNOR. I just want to say that I am a cosponsor of this legislation, which I think is an excellent piece of legislation and is much needed, particularly in States like South Dakota. I know the distinguished chairman, Senator Goldwater, understands rural areas and the importance of a local radio station in a position to give us the service and the news we so badly need out there. Sometimes we need it far more than the metropolitan areas of the United States because the weather, as you suggested, Senator Pressler, comes up on us in a hurry out there. If we had to rely on stations far away to tell us what is going to happen in the next hour in South Dakota, we would indeed be in a bad and serious situation. Likewise, while it is wonderful to hear the market news from all over the United States, it is kind of important for my people to know what is going on down at the Sioux Falls stockyards when that comes in.

Zeroing in on our own needs and requirements out in South Dakota makes this legislation so important, because the only time many of my constituents have an opportunity to listen to the radio and the news is very, very early in the morning and in the late

evening before they go to bed. Since they are too busy outside during the main part of the day.

I would just like to say to Mr. Goeman, who is here representing his station and South Dakota is a long-time friend of mine; a man who like our distinguished chairman, knows radio inside and out. He started over 25 years ago with the station as a young man just out of college, and now owns and operates it. We in South Dakota have the highest, highest regard for the man, for his integrity, and for the kind of business he runs.

With that, I would just like to associate myself with the remarks that Senator Pressler made, and again, commend him for his legislation.

Thank you.

Senator PRESSLER. Thank you very much, Jim. We will be hearing from you, John, after we hear from Jim McKinney, who is Chief of the Mass Media Bureau at the Federal Communications Commission. We very much appreciate your being here, and we look forward to your testimony.

You may proceed.

STATEMENT OF JAMES C. McKINNEY, CHIEF, MASS MEDIA BUREAU, FEDERAL COMMUNICATIONS COMMISSION

Mr. MCKINNEY. Thank you very much. Thank you for inviting me to come here today and to provide the FCC comments on S. 880. If it would be acceptable, Mr. Chairman, I will summarize my comments and request that the complete text be made a part of the record.

Senator PRESSLER. Yes, that would be a fine. May I say to all the witnesses that we have a long list, and we would appreciate it if you would summarize your statement. We will put your entire statement in the record.

Mr. MCKINNEY. Thank you very much.

The Commission strongly desires to afford daytime only stations the fullest possible measure of relief from limitations on their transmissions before sunrise and after sunset, and thus the Commission supports the ultimate goals of this bill.

The matter is, of course, not new to us. The Commission has taken a number of actions over the past 20 years to try to achieve the results that you seek. That is, to provide flexibility for daytime only stations without undue interference to other broadcasters. It is, of course, at best a very difficult engineering task. Originally, daytimers were permitted to operate presunrise only if other broadcasters did not complain of interference.

Increasing difficulty with this imprecise standard caused the Commission in 1967 to adopt a rule which permitted certain daytimers to operate at reduced power beginning at 6 a.m. This opportunity was extended to more stations as time went by.

In the late 1970's, the Commission turned its attention to demands of daytimers for postsunset operating authority, and in September of 1983, just a few months ago, we adopted a major new rulemaking to provide such postsunset authority at power levels

35-828 O—82——2

which will not result in interference to domestic or foreign stations, and a copy of that action has been submitted for the record.[1]

To a substantial degree the protection levels that we adopted last September assure that no interference will be caused to the primary groundwave service of the protected stations. At the moment, the new authority extends to 6 p.m. local time. However, it will eventually extend to 2 hours past sunset when all of the necessary agreements have been reached with our neighboring countries, Mexico and Canada especially. The Canadian agreement is now in hand. Thus most daytimers will under the new 1983 rules have operating authority which extends during certain seasons of the year as late as 10 or 11 o'clock and even in the middle of the winter normally until the hour of 6 or 6:30.

The new rules also introduce diurnal curves to permit the radiation of daytime only stations. These curves have the effect of generally allowing more power than previously. The recent amendments and our new agreement with Canada also open the way to new presunrise operations by substantial numbers of daytime only stations which are on the Canadian and the domestic clear channels, and we issued a public notice on this matter just last month, and it also has been submitted for the record.[2]

But finally, with respect to the 1983 amendments, they are still evolving. At this time, we have scheduled on the agenda of the Commission's meeting next Wednesday, April 11, 1984, a major reconsideration of the September 1983, decision. Now, because this matter is immediately before the Commission, and because I learned a long time ago as a staff member at the FCC not to prejudge what Commissioners may or may not do at the bench, I am not in a position to share with you the specifics of our proposal to the Commission.

However, I would characterize it here today as being completely in harmony with the goals of S. 880. That is, we are going to once again look at the problems of the daytimers, and to seek ways to meet their demands without severely damaging the long-standing program of providing regular service to all sections of the United States and to all the citizens of the country. The issue before us and before you in the context of S. 880 is one really basically of interference among broadcasters.

This is a very complex issue, especially when you recognize that AM broadcasting in the United States is extremely mature at this time. We have been "engineering in" broadcasting stations in the AM band for over 60 years, and as a result our flexibility today is very limited. It is very difficult to extend operating authority to one group of broadcasters without causing interference to another group.

Perhaps one of the most difficult problems to understand, and it was already alluded to by Senator Goldwater, is the fact that at night the interference extends much further than the added service. Thus when you allow a single daytime station to have enough power to fully serve just an area 15 to 25 miles around the trans-

[1] Retained in committee files.
[2] Retained in committee files.

mitter site, you really have eliminated current service from a clear channel broadcaster covering several whole States.

The tradeoffs are very dramatic indeed, and these concerns, it seems to me, are expressed in S. 880 and in the associated text when the bill was introduced. You are correct to focus on the problem, because what we are dealing with is not simply a substitution of service, that is, not the inability to receive what was a clear and instead to receive the local. It is not a one-for-one tradeoff. The tradeoffs are much more dramatic than that.

It occurs because of inflexible laws of physics and the reality of radio propagation in the AM spectrum, and nothing we do can change those laws.

The full text of my comments today contains an analysis by sections of the provisions of the bill, and I will not repeat them here this morning. Of course, my staff stands ready to assist you in any way that we can as you further consider the matter.

We at the Commission share the goals of S. 880, but in summary we believe it would be preferable to permit the Commission to continue to fashion specific provisions governing the operation of daytime only stations during nighttime hours when there is such a palpable risk of extensive destruction of needed services by other stations. I can assure you here today, and I believe that our recent actions confirm it, that we will do our best to maintain an appropriate balance in this regard.

We recognize that daytime only stations are frequently the only voice in town in rural America. We are anxious for them to prosper in order that they may more fully serve their communities. Our consideration, of course, will focus first, last, and always on the needs of the radio listener, the consumer of broadcasting, not on the providers.

Thank you very much for inviting me here. I will be happy to answer any questions you may have.

Senator PRESSLER. Thank you very much.

Why is there such a disparity for many stations between the presunrise power levels authorized by the FCC's 1983 rulemaking and the post sunset power levels?

Mr. MCKINNEY. There are a number of reasons for that, Senator. I think when the Commission adopted the presunrise authority, it took into consideration some very strong public interest concerns of the morning hours. The local residents were asleep during the night. They did not know the new weather broadcasts. They did not know of the school closings.

They did not know what the conditions were that they were about to encounter as they started their commute in the morning hours, and so there was felt, I think, a strong public interest determination to give as much power as possible—even to interfere, if you will, with groundwave coverage of regionals and other stations—in order to allow service on the local basis.

But there were other considerations. Listening patterns of the larger stations, of the regionals and the clears, I think, are very different in the morning than they are in the afternoon. I am told those stations which are all night stations, and I used to work for one, that no one listens in the morning between 3 and 6, and so the

interference tradeoffs were very different than they are during the drive time in the evening.

There is another major factor, and that is that daytime stations have had for many years and do still enjoy the opportunity to remain on the air in the case of an emergency in the evening. They are already on the air. There is an emergency, a snow storm, disruptions in the local commuting patterns, or whatever. Stations are allowed to remain on the air in the evening, but in the morning, of course, that was not available.

And finally, the sunrise situation from a technical standpoint, and it is extremely complex. I am not sure I could do it justice if I tried to describe it, but the protection that is offered in the morning as the sun rises from the east and goes to the west offers a very different technical situation than you have in the evening. Indeed, there are some people who have and can have a fair amount of power in the morning without causing any interference, but in the evening, because of their location in reference to the dominant station, it can have a dramatic effect. So, some of those stations got quite small powers in 1983.

Senator PRESSLER. Some of that has a strange effect. Take, for example, KXRB in Sioux Falls. They tell me that some of their listeners get used to listening to them in the early mornings during the summertime. Later on, however, where sunrise comes as late as 7:30 a.m., the farmers find their station is not receivable. Is that really necessary under the current allocation of spectrum?

Mr. MCKINNEY. You are talking about listening to a regional station?

Senator PRESSLER. Yes.

Mr. MCKINNEY. That is one of those immutable laws of physics. As the sun rises, the propagation changes. The skywave retracts. The groundwave becomes better, but the skywave retracts, and if you are trying to listen to a distant station, it simply is going to fade out at sunrise.

Senator PRESSLER. KXRB in Sioux Falls is an AM station. Some people get used to listening to its morning programing in the summertime, But when the wintertime comes that programing just is not there. That is the problem we are really trying to solve.

Mr. MCKINNEY. You mean, because the station is not on the air, because it is too early in the morning?

Senator PRESSLER. That is right.

Mr. MCKINNEY. Yes, sir; I understand that.

Senator PRESSLER. You indicate that after negotiations with Mexico and Canada are concluded, some daytime stations will be able to operate up to 2 hours after local sunset. Can you give us an estimate of how many stations will be affected, and at what power level these stations will be allowed to operate?

Mr. MCKINNEY. If there were no change from our September, 1983, action—and clearly I have indicated I think there will be a further change in that—but if there were no change in what we did in 1983, then the power levels that are currently present are the same power levels that will be enjoyed after the Mexican agreement, but instead of extending only until 6 p.m., they will extend until 2 hours after sunset, regardless of the season of the year.

Senator PRESSLER. Some opponents of my bill suggest that Congress should stay out of spectrum allocation and leave it to the FCC. Can you summarize what actions are pending at the FCC that involve daytime broadcasting concerns and when you expect these actions to be completed?

Mr. MCKINNEY. There are a number, Senator. There is the reconsideration, which we would hope and expect will be resolved next Wednesday, April 11.

There are two issues concerning daytimers and of great interest to daytimers that are involved in what we know as the Docket 80–90 omnibus proceeding. One relates to "no demerit" for AM daytimers that wish to obtain an FM facility, and we are about to open up about 700 of those. And the second is a question being asked as to whether indeed we should provide a specific preference for daytimers who are seeking FM assignments from that new table. Both of those issues will be resolved in the fall timeframe as we bring that docket home and open up those new 700 stations for acceptance of license application.

The Mexican agreement, of course, will provide the 2-hour past sunset operation, and negotiations are ongoing. We have met twice with the Mexicans, expect to continue those meetings. It is always very difficult to predict a date when those might be signed, but I will go out on a short little limb and say that we expect it by the end of the year. I am very hopeful for that.

We have in-house a petition for rulemaking regarding rule 73.37(e), which goes right to the heart of one of the issues in your bill, and that is the acceptance criteria for daytimers. We are in an unusual situation, it seems to me now, where in effect the rules of the Commission discourage daytimers from filing to upgrade their facilities.

The Commission's rules go toward diversity of ownership, and so we are always welcoming new entrepreneurs into the market, and as such, that rule tends to preclude the daytimers from moving up in power. We are in effect saying we would rather have a new entrant come in and do it fulltime than to give it to the daytimer to increase his facility.

That was filed by the National Radio Broadcasters Association. I expect to have that before the Commission in the fall timeframe.

And finally, I guess we would expect to see some major construction of post-sunset facilities after the reconsideration is concluded, and I think that will bring in a lot of new information from stations who are going to experience what they can do with the powers that they were authorized last September and as modified perhaps by next Wednesday's action.

Senator PRESSLER. Well, in my years down here I have observed that sometimes agencies respond to signals from Congress. Of course you are an independent agency, but I want to emphasize to you that there are real strong signals from Congress on this one. I know that theoretically, in a Government textbook manner, you do not react to Congress. You are an independent agency. But there is very strong feeling across our country.

Dr. Jackson will be testifying later. He says in his testimony at that the FCC used the most restrictive possible technical factors in developing its 1983 rulemaking on daytime broadcasting. Would

you care to comment on Dr. Jackson's assertion? Or you can do it for the record after you hear his testimony.

Mr. MCKINNEY. No, I would be happy to comment on it, because I believe he is absolutely correct. From a technical standpoint, the Commission looked—this is a shorthand description—we looked at the last minute of the last hour in order to determine the effect of the changes. It is not the case that we simply go from daylight until darkness in an instant. It does spread out over a 2-hour period, a transition period, if you will. Clearly, that issue is one that is in the reconsideration that will be up before the Commission next Wednesday, and I would expect that we may have some alteration of that. I agree with Dr. Jackson.

Senator PRESSLER. Last winter we had a sudden blizzard in western Minnesota and eastern South Dakota in which lives were lost. Some people have been criticizing the weather service for not getting out good information, but that is a case where local stations would have been valuable had they been on the air in the evenings. I do not know if you are aware of this blizzard, but do you think that a change in these rules could have helped any there?

Mr. MCKINNEY. Actually, Senator, our rules today would have allowed every daytime station in that situation to come on the air and remain on the air so long as the emergency continued, and do so with their daytime powers, their full daytime powers, because it was an emergency situation.

Senator PRESSLER. That's true, but if listeners were not anticipating that these local stations would be on the air, they would not tune their radios to those stations if they assumed that the only station they could get at night was Tulsa, OK. Nothing against Tulsa, OK, of course.

I remember recently I was traveling from Milbank, SD, to Watertown. I was going to fly, but there was too much fog, so I got a car and drove. I was trying to find out what was going on. This was about 10 or 11 o'clock on a Saturday night. I was trying to find out what was going on in South Dakota. I found out what was going on in Tennessee and Texas and Tulsa, but I could not get a local weather report or anything, because it technically was not an emergency.

The point is that it is awfully lonely driving down the road there when you can't hear any South Dakota stations. I think those local daytime stations, could be on the air without hurting anyone. That is what we are really trying to do. I do not know if you have had experiences like that, when you have been away from a metropolitan area and there is just no way to get in touch with your State.

Mr. MCKINNEY. I must tell you, Senator, I come from a town of 2,500 population, in the hills of West Virginia. I am not unfamiliar with rural America. And you are absolutely correct. There are spaces between Lexington, VA, and my home town where it is indeed a white area. As you drive through it, there is not anything, either AM or FM, available in the daytime hours, and at night those areas receive their coverage from larger clear channel stations a distance away, but you are correct. It is always better and more desirable to have a local signal delivering most communications that are local in nature. It is simply a tradeoff.

Senator PRESSLER. I thank you very much for being here. I have about 10 or 11 technical questions I want to submit for the record about FCC engineering rules and standards, the sets of curves, and the various daytime groundwave coverage contours of broadcast facilities and so forth. We will give them to you now, and we would like to have your written response for the record. And if the minority has some additional questions, we will also submit them for the record. I think it is best that you have a chance to answer these additional questions in writing.

Mr. MCKINNEY. I would appreciate that chance. I do not like to engage in engineering dialogs up here. I sometimes make mistakes, and I regret them later. Thank you very much.

Senator PRESSLER. I think it would be better for both of us if we did it that way.

[The statement and answers to questions follow:]

STATEMENT OF JAMES C. MCKINNEY, CHIEF, MASS MEDIA BUREAU, FEDERAL COMMUNICATIONS COMMISSION

The FCC shares the concern of Congress with the problems of the more than two thousand daytime-only AM radio stations, and I am pleased to appear here today to comment on S. 880. The underlying objective of S. 880—reduced strictures on their operations—has motivated recent FCC rule amendments that have significantly enlarged the scope of the service they are able to render during pre-sunrise and post-sunset hours. The FCC strongly desires to afford to daytime-only broadcasters the fullest possible measure of relief from limitations on their transmissions before sunrise and after sunset, and thus supports the ultimate goals of the Bill.

FCC ACTIONS TO RELIEVE DAYTIME-ONLY STATIONS

Over the years, as AM broadcasting has evolved and changed, the Commission has progressively enlarged the extent of operations of daytime-only stations during nighttime hours. Originally, they were permitted to operate during designated pre-sunrise hours only in the absence of complaint by unlimited-time stations that they were receiving interference. Increasing difficulty with this imprecise standard caused the Commission, in 1967, to substitute a rule permitting certain classes of daytime-only stations to operate from 6 AM to local sunrise at powers not to exceed 500 watts. This opportunity was subsequently extended to additional classes of daytime-only stations, as enabling changes in agreements with our neighboring countries permitted.

Most recently, on September 20, 1983, the Commission adopted important further revisions to its rules that significantly widened still further the scope of permitted operations by daytime-only stations.[1] These new rules are consistent with several provisions of S. 880. One important new benefit they brought is that daytime-only stations may now for the first time operate during post-sunset hours, until 6 p.m., at powers that will not result in interference to protected domestic or foreign stations. To a substantial degree, the protection required is to the primary, groundwave service of protected stations.

When the current negotiations with Mexico are concluded, the already adopted new rules will make it possible for daytime-only stations to operate up to two hours after local sunset. Such a provision is already included in the new United States-Canada agreement. Eventually, some daytime-only stations will be permitted to operate as late as 10 to 11 p.m. during summer months, depending on their latitude and the consequent hour of local sunset.

Another notable change recently incorporated in the Commission's rules is the introduction of diurnal curves as a basis for determining the permitted radiation by daytime-only stations toward protected stations. These curves have also been introduced into the agreement with Canada, and Mexican agreement to their use is being sought. They have the effect, generally, of increasing the amount of power that daytime-only stations are permitted to radiate toward protected stations.

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[1] The Report and Order that promulgated the revised rules governing pre-sunrise and post-sunset operations by daytime-only AM stations is submitted for the record as Appendix A to this statement. (Retained in committee files.)

The recent rule amendments and the new agreement with Canada also opened the way to new pre-sunrise operations by substantial numbers of daytime-only stations on Canadian and domestic clear channels.[2] The Commission also has under consideration several additional relaxations of present restrictions in its reconsideration of recent rule changes. I will address that matter later in these comments.

THE CRITICAL QUESTION

What confronts both the Commission and Congress in considering further widening of the scope of operations by daytime-only stations during nighttime hours is the very difficult technical question: How far can the relaxation of present limitations be carried without creating disproportionate destruction of the service rendered by over two thousand other AM stations that are authorized to operate unlimited time? The issue is interference among broadcasters. The advanced degree to which most of the AM spectrum has been taken up by the proliferation of stations that have increasingly crowded most of the AM band must be recognized in answering this question. AM has been with us for over 50 years, and it may fairly be described as a mature broadcasting service. As such it is not amenable to sweeping changes or major redesign work which would result in needless disruption of established listening patterns. This is not to say that the service cannot be improved by judicious fine tuning. But we must be careful. Most of the slack has been taken up, and we are rapidly approaching the point where gains for some can be achieved only at the expense of others. The reasons for this may be briefly summarized.

PERTINENT FACTORS

All radio signals possess two basic attributes; one is the capability of conveying information, such as words or pictures over long distances. The second is the propensity to interfere with each other over even longer distances. Immutable laws of physics and signal propagation cause the signals of AM stations to range out many times farther from their transmitters at night than during the daytime. Thus, the area within which AM stations on the same frequency destroy each other's signals is substantially greater than the areas where they can render interference-free service; and this problem is greatly increased at night.

The task of spectrum management is to devise rules and procedures that will allow radio stations to provide service where it is needed, while simultaneously holding interference to a tolerable level. Management of the AM broadcast band is greatly complicated by the fact that AM signals have one mode of propagation in the daytime but two modes at night. At all times during the day and night, AM signals travel over the surface of the earth and have a useful service radius of approximately 15 to 150 miles, depending on frequency, power and local conditions. This is called groundwave or primary service. Additionally, at night, AM signals are reflected from the ionosphere and return to earth at distances ranging from 100 to over 1,000 miles from their points of origin. Class I stations are permitted to take advantage of this, and provide a secondary or skywave service. For all other stations, skywave signals are purely a cause of interference; they are the reason why we can operate only half as many AM stations at night as we can during the day. Stated simply, for every square mile of expanded nighttime coverage for a daytime-only station, the cost is ten square miles of coverage for an existing full-time station.

These interference problems have caused the Commission to do a number of things to minimize problems for the listener. We have historically confined the operation of some stations with full power to daytime hours. We have also required most of the unlimited-time AM stations to reduce the scope of their nighttime operations by lowering their transmitter power at sunset, operating with more limiting directional antennas, or both. Added increments of new interference during nighttime hours would have the effect of still further reducing the amount of service that unlimited-time stations can render. Clear channel stations, which provide secondary (skywave) service to wide areas that have no local service at night would also be prevented, by new interference, from performing that function to the extent that they now do. Thus, propagation considerations compel a comparative evaluation of the service gains and losses that would result from any mode of relief to daytime-only stations.

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[2] A *Public Notice* entitled "Pre-Sunrise Authorizations on Canadian Clear Channels Being Issued" was released by the Commission on March 20, 1984. A copy is submitted for the record as Appendix B to this statement. (Retained in committee files.)

COMMENTS ON THE PROVISIONS OF S. 880

The following observations concerning particular provisions of S. 880 are offered in the spirit of seeking to determine what relief could be provided without excessive service loss—the goal that I believe that both Congress and the Commission share.

The Commission supports the objectives of the proposed addition to Section 307(b) of the Communications Act of 1934. This part of S. 880 wisely provides for due protection to the groundwave service of existing AM stations. To that extent it is consistent with the above-mentioned 1983 amendments to the FCC rules. It also properly avoids violation of treaties and other international agreements. However, the Bill would appear to prohibit the FCC from restricting operations during those four hours in order to protect the secondary service provided by skywave signals of clear channel stations. While it is true that the capacity of clear channel stations to provide skywave service is not fully developed until the second hour after sunset, and that a corresponding deterioration of skywave service takes place during the two hours before sunrise, it is nevetheless true that, during all nighttime hours, over half the land area of the United States depends on such skywave signals as the clear channel stations provide, and that this affects millions of people living in those areas, plus those traveling through them. In these circumstances, it appears strongly desirable that some protection be provided to skywave, as well as to groundwave service.

While again supporting what we understand is the underlying objective of the proposed new subsection (j) of section 309 of the Communications Act, (proposed by further amendment to be redesignated as subsection (k)), we note that this provision would appear to force the grant of applications for new AM stations without regard to the numbers of AM or FM services already available in the communities to be served, and irrespective of the availability of FM channels that could be used to serve those communities. This could result in consuming much of the dwindling amounts of remaining AM spectrum for stations in communities served by a multiplicity of AM and FM signals, and would therefore introduce a restriction in the Commission's ability to manage spectrum allocation so as to protect and foster the opportunity of unserved and underserved places to obtain service. Efficient broadcast spectrum management serving the basic objective of "such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide fair, efficient and equitable distribution of radio service among the several States and communities to each of the same" has stood for half a century as the basic, traditional goal of Section 307(b). The question of whether the objective of assisting daytime-only broadcasters warrants so profound a departure from this cornerstone principle as the proposed amendment to Section 307(b) would effect appears to merit serious Congressional consideration.

The proposed new subsection (k) of section 309 (subsequently redesignated as subsection (l)) would remove the "comparative demerit" for daytimers, provided they agree to relinquish their present licenses if their applications for such new stations are granted. That is now our standard practice; and in MM Docket No. 84-231 we are going even further and asking whether daytimers should enjoy a comparative "preference" in such cases. Legislation on this would therefore not appear to be necessary.

We do not believe that applications to change the hours of daytime AM stations should be deemed "minor change" applications, as provided in new subsection 309 (d). Changing our present procedure of treating changes in hours of operation as major changes could result in foreclosing the opportunity of a daytime station to obtain nighttime operation. Since applications to change hours of operation have the potential for creating mutually exclusive situations, unless these applications are considered to be major changes, it would not be possible to provide the necessary "cut-off" protection to these applicants. Instead, there would be no deadline for filing conflicting applications, and this would impose substantial additional burdens on the Commission and ultimately penalize the applicant. The Commission would be required to repeat its studies of the applicant's engineering showing each time a new mutually exclusive application is filed, and administrative finality might never be reached. This process would severely delay the ultimate grant of any such application.

The Commission is aware, however, of the desirability of simplifying as far as possible the procedures by which daytime-only stations may extend their hours of operation and take advantage of opportunities to increase the power they use during pre-sunrise and post-sunset operations. Innovative procedures have already been adopted that substantially curtail the burden and expense of daytime-only stations in obtaining authorizations to extend their hours of nighttime operation and in-

crease the powers they use during such hours. For all of the foregoing reasons, we believe it would be preferable to avoid rigid legislative procedural provisions such as that contemplated in the proposed new section 309(d).

FURTHER STEPS

The Commission once again will turn its attention to the "daytimers issue" at its next meeting, Wednesday, April 11, 1984, by way of reconsideration of the 1983 rule changes. During the staff's deliberations of this issue, we have given favorable consideration to possibilities for additional changes that would further ease the already relaxed restrictions on the operation of daytime-only stations during nighttime hours. This may be accomplished by certain practical applications of alternative techniques for calculating permissible powers for such operations that would significantly increase the permissible power levels, while giving due consideration to the protection of other stations. As this matter is now immediately before the Commission, I cannot say more at this time, but we will see that a copy of the issued order is supplied to your staff for inclusion in the record of these proceedings if you so choose.

Additionally, the full benefit of the recent rule changes and the further relaxations the Commission is considering cannot be assessed until international agreements permit their full implementation. In these circumstances, it is believed to be desirable that Congress defer its evaluation of the possible need for further legislation until the full benefits from rule changes already adopted can be realized and evaluated.

Again, the Commission remains dedicated to the effort to alleviate the restrictions on daytime-only stations to the fullest practicable extent. We thus share the goals of S. 880, but, in summary, we believe it would be preferable to permit the FCC to continue to fashion the specific provisions governing the operation of daytime-only stations during nighttime hours when there is such grave risk of extensive destruction of needed services provided by other stations. In seeking to maintain an appropriate balance in this regard, we shall take care to give due weight to the act that daytimers are frequently "the only voice in town" in rural America, and we are anxious for them to prosper in order that they may more fully serve their local communities.

Thank you very much.

QUESTIONS OF SENATOR PRESSLER AND THE ANSWERS THERETO

Question. I understand that the FCC engineering rules and standards include a set of curves which rather accurately predict the daytime groundwave coverage contours of a broadcast facility, when the ground conductivity characteristics are known.

It is also is my understanding that you use a curve like the one attached for night-time skywave propagation which, I believe, is referred to as the "50 percent skywave curve." There is also a curve labeled "10 percent."

Would you please explain the use of these curves?

Answer. This question relates to the 10% and 50% skywave curves contained in the FCC rules. The skywave propagation curves that are depicted in Figure 1a of Section 73.190 of the FCC rules are used in performing engineering calculations for stations on the Clear Channel frequencies. Use of these curves permits calculation of field strength at any given distance from the transmitter. The definitions for the 10% and 50% curves are as follows:

Skywave signal, 10% of the time: The value of a skywave signal which is not exceeded for more than 10% of the period of observation.

Skywave signal, 50% of the time: The value of a skywave signal which is not exceeded for more than 50% of the period of observation.

As can be seen from the above definitions, the skywave field strength curves are a statistical representation derived from field strength measurements that were performed at night over a long period of time. The 50% curve is used for calculating the distance to the nighttime skywave services contours of Class I stations. The 10% curve is used for calculating the field strength of interfering skywave signals on the Clear Channel frequencies.

Question. The FCC must have adopted these curves in a rulemaking procedure. What year were the skywave curves adopted?

Answer. This question relates to the date of adoption of the Clear Channel curves discussed in question one above. The 50% curve was adopted by rulemaking in 1936. In 1939 the FCC initiated an extensive field strength measurement program that

involved numerous propagation paths throughout the United States. This measurement program ultimately spanned a period in excess of one sun-spot cycle (a sun-spot cycle is 11 years). In the late 1940's after extensive analysis of the propagation data by both FCC and Industry in Docket No. 6741, the 10% curve was added to Figure 1a. Further analysis at that time did not provide a basis for modifying the 50% curve and it was left unchanged.

Question. These skywave curves are very important as they have dictated the basis of our night-time AM radio broadcast allocation scheme. The Commission must have extensively researched this issue.

I believe that the Subcommittee should have a copy of the documentation used by the Commission to establish these curves.

I would like you to supply our Subcommittee with a certified copy of the engineering research and the rulemaking comments which resulted in the Commission adoption of the 50 percent skywave curves.

Answer. This question related to available documentation pertaining to the development of the skywave curves. As noted above in the answer to question two, the FCC performed rulemaking in 1936 and in the late 1940's in adopting the 10 percent to 50 percent curves. Voluminous comment and analysis was received. Additionally, in the Hearings held in conjunction with Docket No. 6741, technical committees that included broad industry participation were established to study and review skywave propagation. Further review of the propagation curves was made in the extensive record that was developed in Docket No. 20642, Clear Channel Broadcasting. The FCC's Office of Science and Technology has continued for several decades to review propagation data and to participate in meetings of the CCIR (the Consultative Committee on International Radio, a technical committee of the International Telecommunication Union) in order to assess skywave propagation in the light of any new information. It is also worthy to note that after study and analysis, the FCC curves have been adopted for use in several international agreements in this hemisphere, most recently in 1981. Throughout this period the basic foundation of the curves has remained firm.

The extensive records that were developed in 1936 and in Docket No. 6741 were transferred to the archives many years ago and there is no certainty that they can all be located. More recent documentation should be available. However, costs make it prohibitive to duplicate these records due to their massive volume. If the Subcommittee can identify with greater particularity the kind of information that it is seeking, it may be possible to obtain this archival information and reproduce it. We would caution, however, that considerable resources will have to be expended in our search for the historical records.

Question. To the best of your knowledge, as an engineer and as a Department Chief at the FCC which administers the use of this 50 percent skywave curve, just what does the 50 percent mean? Fifty percent of what? Is it 50 percent of the total time from sunset to sunrise? Or, is it the fact that a half-millivolt radio signal from a given transmitter was measured, at least once during the night, as being at least a half-millivolt?

Answer. This question relates to the meaning of the 50 percent skywave curve. The definition of the 50 percent curve was provided in the answer to question one above. Skywave field strength varies in intensity during the nighttime hours and an observer will note that for part of the time the measured field strength will exceed the calculated field strength and for part of the time the measured field strength will be less than the calculated field strength. However, the 50 percent curve predicts that over a period of observation the calculated field strength will not be exceeded by the measured field strength for more than 50 percent of the time.

Question. On the 41 Class III regional channels, about 18 years ago the FCC gave all daytimers permission to operate with 500 watts of power from 6:00 a.m. local time to local sunrise, which is referred to as "pre-sunrise authority" (PSA).

It appears, after 18 years, that this extension has worked very well. I understand that very few complaints have been received at the FCC during the 18-year period.

Yet, the FCC has done nothing for the more than 500 daytime stations on the 20 U.S. class 1-B clear channels and the 50-some daytime stations assigned to the 25 U.S. Class 1-A clear channels.

Why can't the FCC permit these 500 to 600 daytime stations on U.S. Class 1-A and 1-B clear channels to operate with their power reduced to 500 watts during pre-sunrise and during post-sunset?

Answer. This question relates to the communication needs of the 80's. There has been substantial growth in broadcasting through intensive development of various broadcasting media since the 30's. There are now nearly the same number of FM stations as there are AM stations, which total in excess of 9,000 stations, and these

are some 1,000 TV stations. In addition to these stations there are many hundreds of TV translator stations and cable TV is growing in numbers of systems. In spite of this however, the Commission was able to determine in Docket No. 20642, which was concluded in 1980, that there are still substantial areas of the U.S., containing in excess of two million people, that are without any local primary (groundwave) service. It is these areas that depend upon skywave service. The changing broadcasting needs of the public have been recognized and in Docket No. 20642 the FCC removed the exclusivity that the 25 Class I-A Clear channel stations had enjoyed for decades in order that additional full-time stations could be assigned on the Clear Channel frequencies. At the same time the FCC recognized the need to require that the nighttime skywave service of the Clear Channel stations must be protected from interference in order to avoid depriving the public in these underserved areas of the service that they depend upon.

Question. It seems to be generally accepted that there is a "transitional period" twice each day. This is a period of instability in skywave service. There is fading in and out of the skywave signals from distant, powerful, clear channel stations operating on 45 of the 107 AM radio broadcast channels.

The longest day of the year is June 21st and the shortest day of the year is December 21st. A listener that might depend upon a distant skywave service in December and January at 6:30 a.m. would have no skywave service whatsoever in June and July, because 6:30 a.m. is an hour or two after local sunrise and skywave is not active.

I also understand that the powerful 50,000-watt clear channel stations have severe distortion problems at night within their groundwave coverage area. This is due to the "phase distortion" which exists when the signal takes longer to reach the receiver via skywave as compared to a direct path through the groundwave route. Apparently, the FCC has always ignored this service problem in dealing with the clear channels. This "phase distortion" is often especially severe during the transitional periods of the day.

This problem does not exist in areas close to the transmitter as is the case when a daytime station is operating with 500 watts during pre-sunrise and depends upon the groundwave only for service 20 miles away.

Answer. The question here is why the Commission has not been able to help daytime stations on Class I-A and I-B channels and in particular why it has not been able to allow them to operate unrestrictedly with 500 watts. Please refer to my testimony in this regard which appears on pages 26 and 27 of the official transcript.

Question. Has the Commission taken into consideration phase distortion when dealing with the clear channels?

Answer. This question relates to the distortion problem faced by clear channel stations within their groundwave coverage areas as a result of the station's own skywave signals. It is referred to as "phase distortion" and the area in which it occurs is referred to as the "distortion zone." In actuality, the Commission did take this matter into account in developing its new post-sunset rules. This subject was extensively discussed in paragraphs 44-47 of the Commission's Report and Order. In fact, this phenomenon was relied on by the Commission as part of the justification for allowing greater radiation by daytime stations that otherwise would have been possible.

Question. U.S. Class 1-B clear channels each have one or two large 50,000-watt stations which operate with directional antennae at night, and are given skywave protection at night. However, during the "transitional period" of the day, they create considerable interference to each other. Most of these Class 1-B 50-kilowatt clear channel stations switch to their night-time directional antennae at the time of average monthly sunset. They then switch back to non-directional operation at the average monthly sunrise. Due to their high power of 50 kilowatts, they transmit an interfering signal into the area of another Class 1-B clear channel station.

Has the Commission ignored this fact in calculating the coverage of these stations and addressing the issue of permitting daytime stations to operate with a reasonable amount of power during the pre-sunrise transitional period.

Answer. The question deals with the interference impact that Class I-B stations are said to have on one another and the relevance of this impact on whether to allow greater pre-sunrise power for daytime-only stations on these channels. Here, too, the Commission did take this matter into account. Although the Daytime Broadcasters Association failed to provide any technical showing to establish that additional power could be provided with only minimal impact of Class I-B stations, studies were submitted that showed that this would cause serious additional interference both skywave and groundwave. As a result of this situation, it was not possible to follow DBA's suggestion in this regard.

Thus, in summary I would like to emphasize that the FCC has not ignored the facts that have been discussed in the answers to your questions. All of these factors were given weight in the difficult balancing of competing public interest considerations that this proceeding in BC Docket 82-538 required.

Senator PRESSLER. We will now hear from panel 1. I am glad to see Jim Wychor here again from Worthington, MN. I first met Jim on a very stormy day. He was with Senator Abourezk that day in blizzard conditions. John Goeman is here, and we also have Fred Palmer from WATH in Athens, OH, and we have John Hinton, KZZI radio from West Jordan, UT.

I am going to be a true South Dakotan and call on John Goeman first.

We are very proud to have you here. Let me say that Humboldt is not far from Madison, and we enjoy your station very much.

Mr. GOEMAN. It is 25 miles. I checked on that.

Senator PRESSLER. You have good market reports.

STATEMENTS OF JOHN GOEMAN, KJAM, MADISON, SD; JIM WYCHOR, CHAIRMAN, DAYTIME BROADCASTERS ASSOCIATION, WORTHINGTON, MN; FRED PALMER, WATH, ATHENS, OH; AND JOHN HINTON, KZZI RADIO, WEST JORDAN, UT

Mr. GOEMAN. I am indeed honored to appear before this Communications Subcommittee and offer my views on daytime broadcasting issues and S. 880 which was introduced by our esteemed Senator, Mr. Pressler from South Dakota.

It will be 25 years ago this October that KJAM went on the air, and that is also when I began working at the station. During that period, I have been at the station at 5:30 or 6:30 a.m. 6 days a week. Our 500-watt class 3 regional daytime AM is located in a city of 6,200, county population of 10,700. There are four adjacent counties which do not have any type of commercial broadcast facility. There is no AM station that provides nighttime service to this multicounty area.

I would like to offer my definition of the word "service" as it applies to radio, because I think that is the critical point to the issue at hand today. To those of us in a small market, service is, for instance, the announcement of school closings on a winter morning when a blizzard is raging. Twenty-nine school districts in a six-county area around us depend heavily on us in the wintertime to find out if school has been canceled. These announcements not only affect thousands of students and parents, but also the teachers, the administrators, the bus drivers, and everyone else involved in the school district.

Also of major importance during those months is bus route information, road and travel conditions, and continual updates on the weather which you alluded to earlier. These are things we know our listeners expect to hear on their local radio station, and the types of things that we are committed to providing along with the rest of the information that we program.

A radio station several States away cannot possibly provide the specific information that people in our area need to know, nor can television, because of the limited time that they have as opposed to the wealth of information that must be disseminated in those times.

Service is also airing in our case the location of a fire when the fire department is dispatched. Our fire department, as many are across this Nation, are alerted by direct phone lines to their homes, but during the day the firemen rely on our radio station for finding out the location of the fire, and the critical part of the day is the post-sunset, when these men are leaving their jobs and are returning home. They are not near a telephone at that point, and in fact this fire information is so vital that all of our station on air personnel are instructed to interrupt any program when the fire alarm sounds to air the location that the trucks are headed to.

These are the types of things that constitute service to our listeners and those of other daytimers, not the rush hour traffic in Minneapolis that would be picked up because the local station had to sign off. By providing information such as I have detailed, our station has become the community's information and leadership center, a role which was once that of the newspaper. This change of roles did not just occur. It evolved over 25 years because we have recognized what the community has needed and when, and over the years listener response has let us know that without a doubt what we are doing is what is wanted.

KJAM was granted FCC permission on December 21, 1959 to broadcast at 6 a.m. year-round at our 500 watts. We have broadcast for 25 years during that morning transitional hour or hours, and never has any person, any station, or any entity complained to us or to the FCC that we have interfered in any way.

With the transitional period virtually the same at night as it is in the morning, there is no justification for saying that we will cause interference, and there is also no reason to be issued a post-sunset authority of 62.6 watts.

In regard to foreign countries and stations, in our presunrise service authority dated August of 1967, it is shown that CKLM, located some 1,015 miles away, in Nelson, BC, Canada, XEOR, 1,260 miles away in Rinosa, Mexico, and CMBX, located 1,660 miles away in Havana, Cuba, would not be affected by our 500 watts in South Dakota during the morning transitional period, and the FCC granted that presunrise authority back there in 1967.

Senator Pressler, author of S. 880, was raised on a family farm 25 miles from KJAM. Senator Pressler is acutely aware of the importance of the daytime broadcaster and the role they play in providing service to our residents. KJAM is an independent station. We have no network affiliation, but we are concerned with our community and our area. We are not a conglomerate or a part of a corporate chain. We are a small 500-watt station, with my wife Jolynn keeping the books and our son selling advertising. We have a total staff of 10 full-time people and two part-time employees.

Providing farm news, weather, information, local and area news of importance is what service is all about, and America will be better served with S. 880.

Thank you.

Senator PRESSLER. Thank you very much.

Let me say in my view that your radio station, in a small college town, really represents the best in America. I always enjoy going over to Madison. It is a model small community, and I think the service you provide there is outstanding.

Let me next call on Jim Wychor.

Jim, have you been on any blizzard trips lately?

Mr. WYCHOR. Yes, Senator. The blizzard you referred to on February 4, 14 of those people died within 30 miles of our station, unfortunately.

Senator Pressler, it is a great honor for me, the son of Ukranian immigrant parents, to be here today. I am grateful for the invitation to present testimony at this hearing on the plight of nearly 2,400 daytime-only AM radio stations currently operating in this country.

I would like to point out the National Radio Broadcasters Association, which has 2,049 members, most of whom who are full-time operations, has passed a resolution in support of S. 880. We know of no opposition to S. 880 from the National Association of Broadcasters and other national organizations.

The 2,400 daytime stations primarily serve small-town America, in fact provide daytime radio service to over 46 million Americans. The same 46 million Americans are deprived of local nighttime AM radio service by Federal Communications Commission regulations that were, for the most part, designed for the 1930's before the advent of television, FM radio, satellites, cable television, and many other forms of communication.

In fact, these rules were adopted before most rural Americans had electricity, telephones, running water, flush toilets, or bathtubs.

The United States is a vast land, made up of large cities and small cities. In the 1920's radio established its roots, transmitters sprang up in both large and small cities. For instance, two of the oldest AM radio stations in the country are WEW in St. Louis, MO, a large city, and WJAG in Norfolk, NE, a small city, but both are daytimers.

WEW, founded in 1911 by the Jesuits, licensed in 1921, is now in private hands. WJAG in Norfolk, NE, founded in 1922 by private interests.

Then commercial support through advertising became the lifeblood of this new mass media, and the movement was into the larger cities and population centers where advertising dollars were more plentiful. Twenty-five years later, just after World War II, hundreds of smaller cities and communities expressed their desire for their own local radio outlets.

It was also found that they could economically support these new radio stations with advertising revenue, and thus meet local broadcasting needs.

Under the technical standards which have been adopted by the FCC during that first 25 years, they could not grant full-time stations to hundreds of applicants under their scheme of allocations. This was the beginning. (There were only 52 daytime-only stations licensed on January 1, 1946.) It was the beginning of a very discriminatory practice which was instituted by the Federal Communications Commission, which has essentially been followed since 1946.

The attempts at moderating these discriminatory practices against 46 million Americans have been rather feeble up to this date. In effect, the FCC has discriminated against the millions of

our U.S. citizens who choose to live in the smaller communities and cities of our nation. We feel it is an obligation of our Government to treat all citizens on an equal basis.

The Communications Act of 1934, as amended, which we seek to amend here with S. 880, further charges the Federal Communications Commission with the responsibility of distributing radio facilities throughout the States in the public interest, convenience, and necessity. Is it in the public interest for Chicago, IL, for instance, to have 14 AM stations licensed to its corporate city limits, including 5 clear channel giants, plus literally dozens of additional stations in the suburbs, yet 1,532 communities to have no full-time local AM radio service? 642 of these communities have no local nighttime radio service of any kind.

I have attached to my testimony the data showing the location by State of the 46 million Americans without local AM radio service at night. I also have attached a list, by State, of the 642 communities in this country without any local nighttime radio service of any kind.[1]

What has happened, Senator Pressler, is that the Federal Communications Commission has laced the public interest, convenience, and necessity into an engineering straightjacket. I call the committee's attention to the Federal Register of Tuesday, September 20, 1983, in which the Commission did attempt to alleviate the daytime broadcasters' plight, but in fact, in most cases simply laced the straightjacket tighter. For example, hundreds, in fact, a vast majority of the nearly 2,400 daytime stations have been operating with up to 500 watts of power beginning at 6 a.m. local time for dozens of years without a single—not one single documented complaint of interference to another station's service.

Yet, for postsunset operation, the Commission instituted such stringent engineering standards, that stations operating with 500 watts, presunrise, have as little as 1.4, 1.7, 2, 3, 5, 7, 9, 11 watts postsunset. In many cases, these commercial stations are expected by the Commission to provide a local service with less power than a CB radio.

What the daytimers of this country are seeking is full local use of the transitional period; that is, the period that begins 2 hours before sunrise until sunrise, and from sunset until 2 hours after sunset. This transitional period is that time of the day when the ionosphere cause the skywave signals that our antiquated engineering standards protect to be very unstable. We feel this period should be used by all of the daytimers in this country for local broadcasting purposes.

The atmospheric conditions that prevail during these two periods are essentially the same as far as the propagation of AM radio waves is concerned. In the real world, Senator Pressler, where these 46 million unserved or underserved American citizens live, they do not listen to a skywave radio signal coming off of one of these protected giants at 6:30 or 7 at night for 3½ to 4 months of the year, and then spend the next 7½ or 8 months wringing their hands waiting for that signal to come back. In the real world, surveys show that people would rather listen to a scratchy local or re-

[1] Retained in committee files.

gional station than a distant giant. In Norfolk, NE, for instance, they are not interested in the traffic report on the Outer Drive in Chicago or the Kennedy Expressway at 6:30 at night—not in December, not in July—but when a person living in northeastern Nebraska tunes to 780 kilohertz after sunset—that is what they get. It is time our frequency allocation system was brought into the second half of the 20th century. S. 880 proposes to abolish the skywave signal as a protection factor in determining AM radio interference. It, in fact, does not disturb the wide area groundwave coverage of the clear channels, which I might add is larger than the groundwave signals of any other AM stations.

S. 880, in fact, proposes to protect their signals on the same basis as every other AM station in the country.

Now, briefly about our station. KWOA in Worthington, MN has been on the air under the same basic ownership since October of 1947. I have managed the station since August of 1963. I am in the station at 6 every morning, leave between 5 and 6 every night. I broadcast the major morning newscasts, I write and broadcast the commentaries, I oversee the sales, the programming, the engineering, and every other aspect of the station.

In our station, with such services as our own in-house weather radar system at a cost of many thousands of dollars, because the weather bureau radar systems are 200 miles away—the only thing they can see out in our country is 50,000-foot high thunderheads. We are one of the few small stations in the country who have our own weather radar system.

We would like to be able to provide this service for more hours each day.

And, Senator, we thank you for your introduction of S. 880 and your support of it, and we hope the full Senate will pass it as soon as possible.

Thank you very much.

Senator PRESSLER. You have several listeners in South Dakota. I know there is one women's program on that is associated with the Kitchen Klatter magazine. My mother listens to that program.

She gets your signals somehow during the daytime. It is called the Kitchen Klatter, I believe.

Mr. WYCHOR. Kitchen Klatter program, yes.

Senator PRESSLER. What is the name of that town?

Mr. WYCHOR. Shenandoah, IA.

Senator PRESSLER. The Driftmeyer family. My mother receives Kitchen Klatter magazine, and she always listens to Robin, or whomever puts on that radio program.

Let's go to a station that we do not get in Humboldt, SD. Fred Palmer of WATH, Athens, OH.

Mr. PALMER. Senator, I am Fred Palmer.

A word about my background. I started in 1929. I have managed local stations, regionals. I worked at the clears. I have operated daytimers. I became the first radio consultant. I have been a consultant to 84 different stations. I have trained well over 10,000 broadcast people throughout the United States and Canada who have had some kind of work with all different classes of stations.

In 1929 I was running WAIU in Columbus, OH. It was 500 watts, daytime, on 640. The dominant station was KFI in Los Angeles,

2,100 miles away. We had received word from the Federal Radio Commission that we could operate until dark. It was in error. Seven months later, we got another telegram correcting the error, saying we could sign off at sunset.

I came to Washington, the Federal Radio Commission, to Commissioner LaFount, and asked him what we might do to get more time. And he said get an expression from the people. I went back and got 65,000 letters and brought them back to Commissioner LaFount. He said that will not count. Each letter must be an affidavit. So I went back to Ohio, and, Senator, I brought back to Commissioner LaFount one quarter of a million affidavits.

Now, we did not get more time, but the Federal Radio Commission passed a new ruling, outlawing more affidavits.

In 1938 I was manager of KOY in Phoenix, AZ. My associate was Mr. Glenn Snider of WLS Chicago. He brought me with him here to Washington to attend a strategy meeting in the old Raleigh Hotel on what could be done about the daytimers and the clears. I was there and heard it. The attorney, in outlining the procedure, said I think by doing certain things here, we can get a delay of 6 years. Then we will probably go before the Supreme Court, and then we can get a further 4 years, but at maximum I think we can delay any action on the daytimers for 10 years. And, Senator, that was 46 years ago.

Now I think the big stations had a reason for all this, and it was a good reason. The Federal Radio Commission did this because in those days, we had network programming, and if they wanted to hear Jack Benny, sure, they tuned in to a station where they could get it. So there was a reason for this, but a lot of development has taken place since that time.

In about the mid-50's, along came TV, and this is important. The programs went from radio over to TV and left radio with a broadcast service. This is one of the most important things that has happened in our communications business. So the broadcast service, all of us then in radio, we broadcast the same records, the same news, the same sports, and the same local service. That was a big thing in the broadcasting industry.

Now, Senator, this week right here in this magazine, U.S. News, the feature story is "A World of Communications Wonders." It is fantastic. Be sure to read it. All these changes taking place, and the changes taking place on everything except daytime radio. That got stuck in a groove back there years ago, and nothing has been done. Everything else is changing in this world of communications, and I appreciate that this legislation is being reconsidered at this time in light of these changes to see that the public interest is best served, where the most people will get the best service from radio.

Thank you, sir.

Senator PRESSLER. Thank you. That is very impressive testimony, and you bring with you a lot of history. You make me feel very glad that I am working on this issue because you are right; there is not really any reason that we cannot make some changes in this area. We have made them in other areas, and these changes will not hurt anybody. Some people might disagree with that, but I believe this measure will help more people.

Mr. PALMER. I am 80 years old, and only have 10 years left, and I would like to get some action.

Senator PRESSLER. I promise you we will. We are delighted to have you here, and we are lucky to have this bit of history.

Mr. John Hinton, KZZI radio, West Jordan, UT.

Mr. HINTON. Thank you, Senator.

I am probably the youngest one here, both in the industry and agewise. I am the vice president and general manager of KZZI Radio, a daytime station assigned to West Jordan, UT, a suburb of Salt Lake City.

KZZI has been broadcasting since January 31, 1983, on a program test authority of the FCC. KZZI format is Spanish—language, music, news, sports, weather, and informational programs in Spanish. KZZI has a daytime power of 10,000 watts, with a 1,000 watt critical hour restriction.

First, I will establish the size of the Spanish population in my service area, explain some of the problems associated with not having extended hours, and show that the postsunset authority issued by FCC is essentially ineffective, and finally, ask any of the remaining Senators that would listen to this to support S. 880.

The Spanish-speaking people of Utah are the largest minority group in Utah. According to the Utah Department of Employment Security, there are over 59,000 Hispanics living in my service area. That is 90 percent of the Hispanic population of Utah. These figures do not include the numerous migrant farm workers, the university students at the University of Utah and BYU taking Spanish, the many junior and senior high schools that even assigned to listen to my station as homework for their Spanish classes, and of course it does not include the unknown numbers of Hispanics of questionable legal status.

It has been estimated that an additional 30,000 Hispanics live in the Salt Lake area, bringing the total to a possible 90,000 people that are served—Spanish needs are served by KZZI for current news and information.

The number of people that only speak Spanish is unknown. Whatever that number, KZZI is the only daily source of entertainment and information. KZZI transmits emergency broadcast system's messages in Spanish, the only broadcast facility in Utah to do so.

Last spring, spring of 1983, many Spanish-speaking people in flood areas would not have received timely notification of evacuation warnings if not for KZZI's Spanish language emergency broadcast system. Fortunately, the floods were in the months of May and June when our broadcast day is essentialy 6 a.m. to 8:30 p.m., so most of the emergency broadcast systems were received and transmitted.

However, in November, December, January, and February, many Spanish-speaking people are deprived of information that can be considered critical to their safety. Many of the Spanish-speaking mothers do not get word that schools are closed until they drive or walk through hazardous conditions to the school to find them closed or, in the same vein, they simply do not send their children to school, fearing possible school closure; all leading to a great deal

of confusion, because we, KZZI, are their only source of information, and we are not on the air.

Weather warnings are not available to the Spanish-speaking population in the early mornings and late afternoons in the months numerous weather-related problems exist. By broadcasting from 6 a.m. until 2 hours after local sunset, essential services can be provided to our Spanish listeners that are not available elsewhere.

If it were not for the many volunteer announcers and informational support from the Hispanic community, KZZI would not be able to offer a lot of our services. Advertisers feel that morning and evening drive is essential to effectively reach a listening audience, time that is not there or very minimally on KZZI because of antiquated rules and regulations.

KZZI remains on the air because of the support of people like Manuel Alvarado, a construction worker who volunteers 18 hours a week announcing; Ignacio Sanchez, a precious metal smelter, 16 hours a week; David Martinez, a school teacher, 3 hours per week; Frank Romaro, a nighttime dishwasher, 18 hours a week; and Guerillmo Rodriquez, a farm worker, 18 hours a week. There are many other Spanish-speaking people that provide information, local news items, and service to their own people. The desire in a Spanish community is that intense to keep KZZI on the air—a radio station that serves their needs.

Extension of time that KZZI would receive when S. 880 passes would enhance the service of a large number of people without affecting the service area of the 50,000-watt station KZZI is protecting in Spokane, WA and Nashville, TN. I understand some Senators feel the FCC rulings on the post-sunset authority last fall is sufficient to provide my station's time we were hoping to gain through S. 880.

You have a copy of that authorization as part of my presentation. I would like to point out that I do not receive any post-sunset authority in the months of November, December, and January when our listeners need it the most. And those months that I am authorized post-sunset authority varies from a low of 17 watts to a high of 44 watts. This would require purchase of another transmitter which is not economically feasible at this time.

This mickey-mouse bureaucratic baloney also permits me to enjoy a broadcast of 2.1 watts if I do not extend past 6 p.m. This option is not even available, since authority is not granted for November, December, or January when I would be going past that time.

If the time was an option, 2.1 watts would essentially be useless, as well as a slap in the face to professional broadcasters because FCC allows citizens band radios, CB's, to transmit at 4 watts. It is obvious to me that FCC will not enact reasonable rules, unless forced to do so by the Senate. The Spanish-speaking population in KZZI's service area is being deprived of entertainment and information because the only Spanish station is restricted to out-of-date broadcast rules that were devised in the infancy of radio to allow a few stations to cover the entire country.

Senator, I have been hopefully brief in my attempt to convince people to support S. 880 to put the bill on the Senate calendar as soon as possible. I hope this exemplifies the simplicity of the prob-

lem. People are not being served effectively by current broadcast rules and regulations. These people can be served without adversely affecting the service to any other group of people.

KZZI needs extended hours to provide needed and essential service to our listeners. The many daytime Spanish stations in the country need this service. There would be a fair and economical way to extend the service to the Spanish-speaking population without affecting others.

Thank you for your support of S. 880, sir, very much.

Senator PRESSLER. Thank you. We also had scheduled a witness, Bill Barry, of Nashville, TN but he was unable to be with us today. Let me remind people that this is not dividing the broadcast industry, because it will not hurt the clear channels. But those States that have big clear channel stations may have their Senators unduly alarmed. Therefore, it is very important that the daytimers get around to see them.

In Tennessee, I understand they have organized a visit with Senator Baker, to be sure that S. 880 can be cleared for the floor. In your State we would like the support of your two Senators. I speak well of all Senators, because we are all colleagues here, but we need help to get this bill considered. The Senate is of such a nature that a small group of Senators can slow something down substantially. And so we do need help. There are more daytimers around, but they might not be vocal enough, and I think it is very important that Senators are contacted on this matter.

I do have several questions for you.

John, would you elaborate on the importance of weather reports and road conditions this past winter for road and school closings in your area?

Mr. GOEMAN. Well, as I stated in my testimony, Senator, 29 school districts rely on us exclusively, rather than call the Sioux Falls media. Rather than call the three television stations and the numerous radio stations in Sioux Falls, they make it a point to rely on our stations in Madison to serve that whole eastern South Dakota area.

Senator PRESSLER. And that is really critical, especially with the kind of winter that we have had.

I also understand that your station has been of help to the fire department in Madison. Would you please elaborate on the assistance your station gives to this public service?

Mr. GOEMAN. I spent 15 years on the fire department myself, so I guess I am qualified to speak to that. Years ago, we started broadcasting. Well, first of all, there are 28 volunteers on our fire department. I have since retired. But there are 28 volunteers. They are notified at their homes by telephone when the alarm is called in.

The radio station is also one of those telephones, and when the alarm rings into the radio station, we immediately broadcast it on the air, so that the firemen, the volunteer firemen—it is a 100-percent volunteer fire department—know where to go or where the fire is.

Senator PRESSLER. Yours is truly a small radio station in a small town rural area that provides local community information.

Mr. GOEMAN. Yes, sir.

Senator PRESSLER. Is there survey information regarding the people's preference in radio coverage?

Mr. GOEMAN. Well, there are Arbitron surveys; yes, sir.

Senator PRESSLER. Do you know whether they prefer local radio service over clear channels?

Mr. GOEMAN. I do not have anything documented.

Senator PRESSLER. I guess it was Jim who mentioned the surveys. Jim, what surveys were those? You can submit them for the record?

Mr. WYCHOR. Yes. And we have information that Mr. Livesay will be testifying to later in his testimony concerning the surveys that were conducted by the FCC in one instance and by the Daytime Broadcasters Association in other instances. And the county-by-county Arbitron of the spring of 1983 is the latest nationwide survey available which would very dramatically indicate the listeners' preference for local service.

Senator PRESSLER. This question is directed to anyone on the panel. You have expressed dissatisfaction with the power levels authorized by the FCC for post-sunset operation. Can each of you tell us what levels you would need to do a decent job serving your communities during post-sunset operations?

Mr. GOEMAN. I would answer that first, Senator.

As I stated in my testimony, we have been operating for 25 years at 500 watts, which is also our daytime power, 500 watts presunrise, and also 500 watts daytime. And in 25 years, we have not caused any interference during presunrise; thus, no interference should be caused during the post-sunset period.

Mr. WYCHOR. Senator, in the case of KWOA, our post-sunset authority is 188 watts. We have no quarrel with that. That power is sufficient for us to do the job. We are pleased with that power for our station and our facility. But there are hundreds and hundreds of stations in the country that are not that fortunate.

Mr. PALMER. I think the most important thing to WATH down in Appalachia is that we just want to serve our market, not 100 miles away nor 200 miles away. We just want to serve our market in our case, which is about a county. And I think this is the new thing that has hit the whole broadcast service, regardless of power.

Today, each one is serving their market. I was so interested to hear the 50,000-watt WTAM in Cleveland state as their call letters this is WTAM Cleveland's community station. So, you see, regardless of power, we are each serving our market with a broadcast service, and in our particular case in the hills, we just want to put a good signal down on the shady side of the hill in our market, so that they get good service.

Mr. HINTON. Essentially, that is all I think any of us really are asking is just to be able to service our area. In my case, it would not extend past 70 miles from our transmitter site. Anything is better than 2 watts.

Senator PRESSLER. It would not interfere with anybody else?

Mr. HINTON. As far as ground service area, it would not interfere with Spokane, WA nor Nashville, TN, sir.

Senator PRESSLER. That is fine.

We may have some more written questions for this panel and possibly some from some of the other members of the committee

who are not here. Let me just say to this group that I want to thank you for being here, but also I think that what you are raising is very important, because there are some powerful interests who are just opposed to any change, even if it will not hurt them. We do need to really work hard to get this thing passed in the Senate.

Now, even if it does not pass the House, and I think it will, it is very important that we pass it in the Senate because a lot of times the FCC responds to strong direction from up here. We cannot let this slip another year. We have gotten it on the Senate calendar, and we are going to get it on the floor, but I need help from all of your.

And I appreciate what you have said here today. Thank you very much.

I will now call the next panel. Mr. Eugene Sudduth, president and general manager, KPRE, Paris, TX; Mr. Ray Livesay, WLBH Mattoon, IL; Mr. Dan Lucas, WWRC, Clinton, NC; Dr. Charles Jackson, Shooshan-Jackson, Washington, DC; Mr. Bill Saunders, vice president/general manager, WPAL, Charleston, SC.

If you could summarize your comments, we will put your full statement in the record. If you feel that you have something earth-shaking, you can go beyond that.

Eugene Sudduth, president and general manager, KPRE, Paris, TX.

STATEMENTS OF EUGENE SUDDUTH, PRESIDENT AND GENERAL MANAGER, KPRE, PARIS, TX; RAY LIVESAY, WLBH, MATTOON, IL; DAN LUCAS, WWRC, CLINTON, NC; DR. CHARLES JACKSON, SHOOSHAN-JACKSON, WASHINGTON, DC; AND BILL SAUNDERS, VICE PRESIDENT/GENERAL MANAGER, WPAL, CHARLESTON, SC

Mr. SUDDUTH. Thank you very much, Senator. First, let me apologize for my voice. I do have laryngitis, and I will do the best I can. Please bear with me.

You did beautifully on the name, sir. Most people mispronounce it.

That is a 500-watt daytime station in Paris, TX on 1,250 kilohertz. The purpose, as we see it, of FCC rules or, for that matter, any governmental regulation should be to provide the best service to the most people. And rules that are installed under a given set of circumstances are valid subjects for examination and revision when those circumstances change. A purely technical parameter should not be allowed to alter the overall effect of such rules. In other words, the rules are for the benefit of the people who are listening to radio. I think that has been gone over a few times already today.

The complexion of radio broadcasting service has certainly changed, particularly over the past 10 to 20 years. These changes have involved population shifts to urban areas, sociological changes involving transportation and communications, truly dramatic technical progress such as television, cable, entertainment and information dissemination by technological advances already enumerated here. And this technical progress is ever-increasing.

Radio has become a local service medium, as opposed to its role in the thirties forties and fifties when it was the primary link to the outside world for much of the rural population.

In our specific circumstance, we are in a three-stage market in a small city of approximately 26,000 in northeast Texas. Those stations are one full-time 1,000-watt AM, one full-time 3,000-watt FM, and one 500-watt daytime AM. That is our station.

By the way, we are located approximately 100 miles northeast of Dallas. The two full-time stations are owned and operated by the same ownership and management, so it becomes obvious that this places us in a significant disadvantage, but aside from that, it degrades service to our area by providing a monopoly on local nighttime service to one licensee.

Thus, in effect, we have a government-supported disincentive for maximum nighttime service to our community and any competitive spark that might produce such service is eliminated.

For example, we have four area high schools clamoring for nighttime coverage of their sporting and other activities. That is not possible under present circumstances. The same is true to a larger extent for our area churches who would broadcast Sunday evening services, but they are not going to broadcast it part of the year, and then have to shut it off the rest of the year.

But, in fact, our competitior, because he feels no rival pressure for such nighttime service, can dictate who does and who does not have access to nighttime radio in our market.

In order to partially remedy our competitive disadvantage and that to our community, we petitioned the FCC for rulemaking to change the FM Table of Assignments, and we are pleased that that effort was successful and the FCC has allocated an additional class A FM channel to Paris, TX. However, because of an anomaly in the FCC procedures regarding the granting of new construction permits under such circumstances, we are faced with four competing applications for the channel which we were instrumental in having assigned to our community.

Of course, this effort involved considerable time, money, and expense on our part, and none of the competing applications were from local people at all, and some came from as far away as Florida and California and, to our knowledge, from people who had never been to Paris, TX, in their life. If these applicants had a genuine interest in our market as a site for another FM station, our question is, Why didn't they initiate the same petitioning process which was equally available to them?

It is no secret among broadcasters that there is a traffic in this business, and many times applications are submitted not for the intention of putting up a radio station, but making a quick profit by offering to withdraw the applications in consideration of remuneration for their so-called expenses; or, should they be successful in obtaining FCC approval for such a station, to sell the construction permit for a handsome profit.

In its present form, S. 880 would require that the daytimer be granted a preference—in its present form, the bill requires that the daytimer would be granted a preference for any new channel only if he divests himself of his AM station. We repespectfully and sincerely request that this requirement for diverstiture be eliminated.

Again we ask, if the competing applicants were sincerely interested in our specfic market, why did they not risk the time, effort, and expense involved in the petitioning process?

We feel that consideration is due the daytimer who has had to operate under severe competitive disadvantage for years, particularly where he has taken the initiative to obtain the new channel. We also point out that our competitor, who has both the full-time AM and the full-time FM in our market, is not required to make any divestiture of any kind.

Now, when S. 880 was originally written, it was our understanding that the FCC was considering requiring the breakup of the AM/FM combinations, but the FCC has since decided that this act would not be in the public interest. We respectfully request the Senate to pass S. 880 as quickly as possible, but with the alteration of that section requiring divestiture of the AM property in order to obtain a preference for a new FM channel where such new channel has been assigned as a direct result of the efforts of the licensee of the daytimer.

Thank you very much, Mr. Chairman.

Seantor PRESSLER. Thank you very much.

I will next call on Ray Livesay from Mattoon, IL.

Ray.

Mr. LIVESAY. Mr. Chairman, it is a privilege to have this opportunity to support your bill and that of your cosponsors, because I believe that in the 50 years of our basic philosophy of the regulation, that the FCC has followed, this is a step in the right direction. And I would like to point out that, having served in radio now for most of my adult life, 8 years working for a daytimer, 2 years in the U.S. Navy radar electronics, and building my own station in Mattoon. Why is it a daytimer?

The first thing I did, having an engineering background and working in engineering with the Navy and so on, I made a frequency search, and all six of the local full-time class IV channels were taken. Under our standards one of them could not be located in Mattoon because we could not operate that way. There would be too much interference. So I had to take a daytimer or nothing. That is why it is a daytimer.

Now, the testimony which I am presenting here for the record, which I will not read—but I would like to call reference to pages 9 through 17 analyzing the Arbitron survey that was purchased by the Federal Communications Commission in the superpower docket, Docket No. 20642. We use it here because it is one of the first, and so far as I know the last indepth survey that was made about skywave listenership in the secondary areas. And this cost a considerable amount of money, and it is a part of the files of the Federal Communications Commission for anyone and everyone to study, including the clear channels as well as this committee.

We have analyzed this survey which is for full nighttime skywave conditions. And your bill does not touch that area at all. We have never requested the Commission to do away with total secondary skywave service—never. We have asked for the extension of hours into the transitional period, which we believe is of very little benefit to that vast skywave service because the transitional period moves backward and forward throughout the year as

days become longer and days become shorter. And it is of little benefit to the clear channel people, but it can be of great benefit to that local service of the daytime station by getting these few additional hours to serve their community with local programming.

I would ask that the committee include my statement in the record. It shows that even with the full skywave condition, there is a very low dependency upon secondary skywave service. The average for all 25 of the class I-A's is only about 1.338 percent. Some of the stations are more than that, and some are less. But that is the average, and it shows it here in a chart.

It also points out that even during full skywave conditions, taking one of the clear channels in Nashville, TN—in the State of Illinois, which is all beyond their half-millivolt contour, daytime groundwave contour, and also the State of Georgia which is mostly beyond their daytime groundwave service area, that even there when there are full nighttime conditions, the listenership is very meager, even to that skywave service. They only reach into 11 of the 102 counties in the State of Illinois, and a few more than that of the 159 counties in the State of Georgia. So it gives you a State—a couple of States outside the areas in this study that was obvious from the Arbitron that the FCC purchased.

Now, you will have this weighed against the emotionally stimulated mail from clear channel stations, not during the transitional period which your bill addresses, but to the full skywave conditions where they say if certain things happen, you will not be able to hear the Grand Old Opry more than 100 miles from Nashville. Well, your bill addresses only the transitional period, and they will still be able to hear it by, by skywave, as they do now. This bill only affects 2 hours after sunset and 2 hours before sunrise.

Now, this is contrasted with some local surveys, one by Pulse in Mattoon, IL, and one by the local junior college. It shows the intense listenership to the local daytime broadcast facility which has to shut down at sunset. In other words, we shut off thousands of dollars worth of equipment at sunset and dump the audience, and I presume that the full-time stations hope they will tune over to them. And perhaps that is one of their interests in trying to keep us signing off at sunset.

My statement also shows the power that we will be permitted for my four daytime stations. At Mattoon I could have as much as 4.6 watts post-sunset, which would work pretty good, by the way, because of the nature of the channel. I am using it, and it is covering the local market about like a class IV would during the transitional period.

The station at Clinton, 3.8 watts, is absolutely useless due to the nature of the signals on the channel. We do not even use it because we cannot even get out of the 5-acre field where the tower sits.

The one in Van Wert, OH, is on 1220, a Mexican channel. It can operate until presunrise with 250 watts. I believe it is 28.7 watts it can operate post-sunset, and that is useless because of WGAR in Cleveland.

The other station in Bartow, FL, is a regional class III and can operate with 155 watts, which would be very good.

I submit my statement for the record. Thank you.

[The statement follows:]

STATEMENT OF RAY LIVESAY, PAST PRESIDENT, DAYTIME BROADCASTERS ASSOCIATION

I welcome this opportunity to comment on S. 880 and to express my views on the provisions in this bill which will be of great benefit to hundreds of daytime radio broadcast stations which are now only permitted by the Federal Communications Commission to operate with a reasonable amount of power from local sunrise to local sunset.

It is fundamental that all radio channels are the property of the people of the United States. No individual has any private vested or exclusive right to their use. Since radio channels are severely limited because of natural scarcity, monopoly or concentration resulting from the method used in assigning the use of radio channels is far more abhorrent than monopoly or concentration in any other field of business endeavor. It is fundamental, that the basic function is to provide for needs, interests, and tastes of the public in the respective communities and areas which they are licensed to serve.

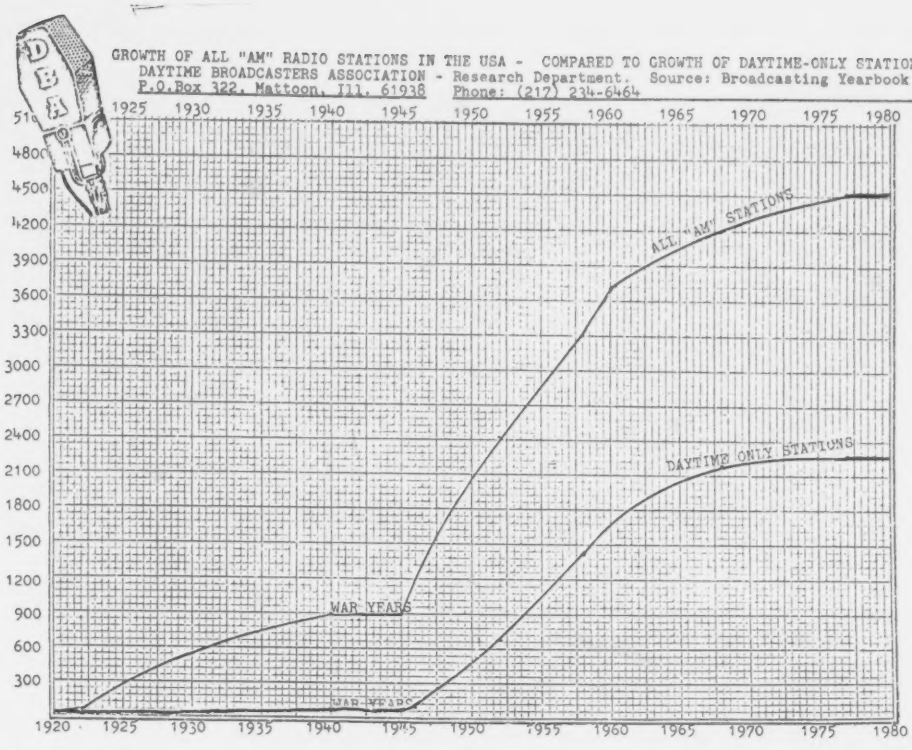
These are ingrained in the Communications Act and in regulatory policies promulgated by the Commission. They are the "touchstone" which must guide regulatory determinations with respect to use of radio channels in the public interest. They are the basic premises upon which the Commission's determinations have been based down through the years.

It is hardly debatable that the AM broadcast allocation structure has been dominated and influenced by the philosophy which demands exclusive or near exclusive occupancy of the lion's share of AM broadcast frequencies by a few clear channel stations which allegedly provide wide, indeed nationwide, coverage. This philosophy is based on the assumption that needed broadcast service would not otherwise be obtainable by many millions of persons in extensive areas of the country. The results which the clear channel philosophy has produced are, however, totally inconsonant with the statutory mandate that "licenses, frequencies, power, and hours of operation must be distributed fairly, efficiently, and equitably among the several states and communities." And the assumption, which may once have been justified, has become a myth.

The basic classification of the AM radio broadcast channels was completed some 50 years ago and effected in March 1941. There were only some 900 AM stations serving the entire United States in 1941. There were less than 100 daytime only stations until after 1946. In January 1946 there were only 53 daytime only stations. (See the next page for a graphic illustration of the growth of AM stations in the United States from 1920 through 1980.)

Below is shown the channel classes and the number of daytime only stations assigned to each classification through 1983:

	Channels	Daytime stations
U.S. class 1–A clear channels	25	56
U.S. class 1–B clear channels	20	529
Mexican class 1–A clear channels	7	295
Canadian class 1–A clear channels	7	206
Bahamian (1540 kHz) clear channel	1	42
Regional class III channels	41	1,322
Class IV local fulltime channels	6	
Total	107	2,450


GROWTH OF ALL "AM" RADIO STATIONS IN THE USA - COMPARED TO GROWTH OF DAYTIME-ONLY STATIONS
DAYTIME BROADCASTERS ASSOCIATION - Research Department. Source: Broadcasting Yearbook
P.O.Box 322, Mattoon, Ill. 61938 Phone: (217) 234-6464
ALL "AM" STATIONS
DAYTIME ONLY STATIONS
WAR YEARS
WAR YEARS
1920 1925 1930 1935 1940 1945 1950 1955 1960 1965 1970 1975 1980
300 600 900 1200 1500 1800 2100 2400 2700 3000 3300 3600 3900 4200 4500 4800 5100

One might ask, since there are only 56 daytime stations assigned on the 25 U.S. Class 1-A clear channels involved in this proceeding, why the great interest by DBA in the S. 880 bill, the instant proceeding?

In studying the record of the proceedings back 50 years ago when only six (6) of the 107 channels were classified as LOCAL class IV fulltime channels, the people involved never dreamed that there could ever be economic support or a need for 4,900 AM radio stations to serve the nation. These six Class IV channels would accommodate over 1,000 fultime local stations and that alone would be more than adequate for the future needs of local broadcast facilities.

The wartime freeze on the granting of new stations was lifted in January of 1946 and applications for new broadcast stations became a deluge at the Commission. Most of the Class IV channels filled up and communities had to accept daytime-only facilities or get none at all.

THE PROBLEM . . . . . There were only six Class IV Local fulltime channels. THERE SHOULD HAVE BEEN AT LEAST 20, then there would have been no need to grant such piecemeal facilities as daytime only.

The present six Class IV channels accommodate a total of 1,010 fulltime community stations which operate with 1,000 watts daytime and with 250 watts power at night. There is an average of 168 stations on each of these six Class IV channels, all operating fulltime.

WHY SHOULD GOVERNMENT DISCRIMINATE THROUGH REGULATION?

We must realize that 1,498 of the 2,450 daytime stations are located in small markets and communities where there is NO LOCAL fulltime AM station. In 1977, DBA research showed that 713 of these 1,498 communities did not have a local fulltime FM assignment. Approximately 46,000,000 of our citizens live in or near these 1,498 daytime only stations. These citizens are being discriminated against by the regulatory processes of their own Federal government. The FCC and the Congress has made them "second class radio citizens."

This Senate Bill S. 880 correctly addresses the matter of reliable LOCAL Radio broadcast service during that period of the day around sunrise and around sunset. It is known as the "Transitional" period of the day. It is also a time of the day when the groundwave radio signal is the more reliable service to the listeners from

nearby broadcast transmitters. The radio spectrum is allocated by government to serve "People", not broadcasters.

THE INSTABILITY OF THE TRANSITIONAL PERIOD

It has long been known that radio wave propogation in the standard "AM" broadcast band (535 to 1605 Khz) is almost a constantly changing situation from noon to midnight, from season to season and even from year to year. In the early days of broadcasting, many compromises were agreed upon and generally accepted which helped to solve some of the problems of forty years ago. Engineers decided to break the 24-hour day into two basic conditions of day and night with the break coming at sunrise and at sunset even though there was a period of several hours around sunrise and again around sunset during which the transition from day to night and night to day was actually taking place. Since there were only a few hundred stations serving the entire nation in the "Thirties" it was important to have high power clear channel stations to serve vast areas even though the distant areas would be served only with an instable skywave signal.

We are now living in the "Space Age," . . . There are now ten times as many "AM" radio stations serving the nation as there were 50 years ago. Smaller and smaller communities demanded and got their own LOCAL broadcast station. The local people cannot understand why it is that during January and December they go to work before their local station comes on the air and it signs-off at 4 or 4:30 PM about the time they get home from work. It seems to many to be a form of discrimination through federal licensing. Since 1967, the use of PSAs has greatly improved this situation in that 1,650 of the 2,450 U.S. Daytime-only stations are permitted to sign-on at 6:00 AM LOCAL time.

The TRANSITIONAL period of the morning (about two hours before and two hours after sunrise) is a period of ever-changing instability from the standpoint of skywave service in the "AM" broadcast band. During a few winter months a distant skywave listener may be able to hear a clear channel signal 200 to 600 miles away, but as summer approaches and the days get longer, that distant listener will no longer be able to hear the 6:30 AM Clear Channel news or entertainment program because it will be long after sunrise, propogation characteristics have changed and the powerful Clear Channel station will only be serving its groundwave listeners. It will be the following winter before the distant listener can again get the wavering skywave signal. Most broadcasters realize that it is almost impossible to develop a reliable service consistently to a skywave listener during the early morning transitional period around sunrise over distances of hundreds of miles. DBA points out that this instable transitional period would be of much greater service to the people of many communities if all the Daytime-only stations were permitted to operate with PSAs from 6:00 AM LOCAL time to local sunrise with 500 watts power as do other Daytime-only stations.

The Commission must realize that this is not just an engineering problem of interference only. The second hour night curves of skywave propogation are not applicable to the "transitional" period of the day. Neither, are the groundwave curves fully applicable to this period. Just as compromises were adopted forty years ago, the Commission must consider the greater number of "AM" stations in existence today and how the listening habits of people have changed. "DXing" was a great fad in the Twenties and Thirties, but there are very few around in the Eighties.

Today man lives by the clock . . . not by the sun. Engineers may confuse the issue with technical details, saying the laws of physics are final. God made the universe, but MAN drew the propogation curves and allocated the radio channels. We must not be guilty of placing the Public Interest in an engineering "straight-jacket." The morning transitional period would be rendering much greater service if the Commission would permit All Daytime-only stations to sign on at 6:00 AM local time, or two hours before sunrise.

FREQUENCIES: A PUBLIC RESOURCE

The Commission allocates frequencies and grants licenses to serve people, not broadcasters. Our "AM" broadcast band is a great public resource. Survey after survey indicates that most of our 50 Kw Clear Channel stations are large, powerful local stations. In most instances, their programming is directed to their local metropolitan market, not to their distant skywave listeners. There have been many programs on large city Clear Channel stations during the early morning drive-time hours broadcasting the traffic conditions on the streets and freeways in and around the city. This is typical. What interest would the traffic report be to a motorist on his way to work in another city 200 to 500 miles away?

Most 50 Kw Clear Channel stations concern themselves only with their local metropolitan market, not their distant skywave listeners in other communities. Some Clear Channel stations resort to random mail count in an attempt to prove the depth of their secondary skywave service. This mail may not be from just "transitional period" listeners but from full night-time skywave listeners of only special personality programs.

A much more comprehensive nation wide Radio circulation study was made by PULSE, Inc. in 1968 (the most recent one made nation wide) in which they took a large sampling of over 300,000 personal interviews. The general indication of this survey was that the 50 Kw Clear Channel stations, in most all instances, had a serviceable listener circulation only within their daytime 0.5 Mv/m signal contour even though this class of station is protected out to it's 0.1 Mv/m signal contour. There were very few instances where an interviewee indicated that they made great use of a skywave signal from any 50 Kw Clear Channel station.

Typical of many rural areas at some distance from cities with Clear Channel stations is COLES COUNTY in East-Central Illinois. Coles County is 160 miles south of Chicago with the four 50 Kw Clear Channel stations (WMAQ, WGN, WBBM and WLS) delivering a signal intensity of from 1.0 to 2.0 Mv/m most of the year, groundwave. St. Louis (KMOX 50 Kw Clear Channel) is 110 miles Southwest of Coles County and delivers a signal of 1.0 to 2.0 Mv/m to most of the county. It is most interesting to study PULSE 1968 and see how many of the 47,336 (1970 Census) inhabitants of Coles County actually make use of these distant, yet strong and listenable, Clear Channel signals.

Here are the results of the PULSE, Inc. 1968 Survey for COLES COUNTY in East-Central Illinois:

Rank	Station and location	Audience share
1	WLBH—Mattoon, IL	42
	(1170 Khz 250 W. Class II Daytime)	
2	WKZI—Casey, IL	22
	(800 Khz 250 W. Class II Daytime)	
3	WLS—Chicago, IL	9
	(890 Khz 50 Kw. Class 1-A Clear)	
4	KMOX—St. Louis, MO	8
	(1120 Khz 50 Kw. Class 1-A Clear)	
5	WHOW—Clinton, IL	6
	(1520 Khz 5 Kw. Class II Daytime)	
6	KXOK—St. Louis, MO	4
	(630 Khz 5 Kw. Class III fulltime)	
7	WEIC—Charleston, IL	4
	(1270 Khz 1 Kw. Daytime—only in 1968)	
8	WILL—Urbana, IL	2
	(580 Khz 5 Kw. Daytime-Educational)	
9	WLBH—FM Mattoon, IL	1
9	WCRA—Effingham, IL	1
	(1090 Khz 1 Kw. Class II Daytime)	
9	WSOY—Decatur, IL	1
	(1340 Khz 1 Kw./250 W. Class IV Local	

SUMMARY OF ABOVE SURVEY

It will be noted that only two of the five Class 1-A Clear Channel stations even showed up with listeners in Coles County, yet they had good strong listenable signals both day and night. Clear Channel share of the audience was only 17% of the total audience. It is obvious that the people prefer local area stations. Of the 107 "AM" Broadcast channels, 42% of them have been assigned by the FCC as Clear Channels even though the actual serviceable audience with their Skywave night signals or beyond their 0.5 Mv/m Daytime contour is terribly small and does not justify their daytime protection to their 0.1 Mv/m contour. It is time the FCC realizes that the 50 Kw Class 1-A and 1-B Clear Channel stations are basically large, high-power locals serving very little beyond their 0.5 Mv/m Daytime contour, be it Day or Night! This is a waste of our great national resources of the "AM" frequency

spectrum between 540 and 1600 Khz with 42% of the channels assigned to a few giants.

THE FINDINGS OF THE COMMISSION-DIRECTED ARBITRON RADIO LISTENER SURVEY

The Commission, for the first time in the long history of the Clear Channel proceeding, in its Notice of Inquiry in Docket No. 20642, paragraph 23, adopted December 4, 1975, stated, "It is pertinent to the resolution of this proceeding to determine, on the basis of actual listenership, the extent to which the secondary service of clear channel stations continues to be utilized and relied upon."

The Commission obtained certain results from the April/May, 1975 Arbitron Radio Listener Survey and made the information available for use in comments by interested parties in this proceeding.

There are basically three sections in this listenership survey:

Section I—Survey areas which receive no FM radio signals at a strength greater than 50 uv/m, nighttime only. (150 so-called "White area" counties—nighttime only).

Section II—Survey areas which receive FM Radio signals between 50 uv/m and 1.0 mv/m, nighttime only. (50 selected counties)

Section III—Individual Class 1-A Clear Channel stations' listenership out beyond their "home market" area, 24-hours a day, Monday through Sunday. (Some of these counties could receive daytime groundwave signals from the class 1-A Stations)

SECTION I ANALYSIS

The FCC selected 150 counties in remote areas mostly in the western states of the continental United States. There were 114 counties or areas with usable diaries returned. Nighttime for this report was defined as 9:00 p.m. to 4:45 a.m. local time. Only fulltime (no daytime-only stations) station signals would be available to the listeners during these hours.

In 150 pre-selected counties in remote "white areas", the Arbitron report shows that there were 114 counties which returned usable diaries; and of these 114 counties, it was indicated that only 25 counties reported any listening to class 1-A clear channel stations, while 89 counties showed listening to no class 1-A clear channel stations whatsoever. According to the FCC standards of engineering, very few of these remote "white area" counties can receive a listenable "AM" radio signal, except from a class 1-A clear channel.

Much of the listening in these so called "white areas" counties was to stations in the general area thus indicating that radio listeners prefer local programming even if it must be received with considerable interference. The Arbitron Survey reveals that the average radio listener has very little interest in a distant clear channel station located several hundred miles away.

SECTION II ANALYSIS

This section included 45 usable counties of the 50 counties to which diaries were sent. The counties were selected by the FCC in geographic areas where signals of FM stations were from 50 uv/m to 1.0 Mv/m in strength (a very listenable FM signal).

Only 15 of the 45 counties reporting any listening whatsoever to class 1-A clear channel stations, while 30 counties showed no respondents listening to any class 1-A clear channel station.

Again, this Arbitron Survey report shows that the aural radio listener, even in the so-called "white areas" is not interested in hearing the program of distant stations.

SECTION III (APPENDIX) ANALYSIS

This included Arbriton county reports on diaries returned, showing the listenership to the 25 class 1-A clear channel stations, beyond their "home market" areas.

The table included on the next page was prepared from the Arbitron data.

These Arbriton reports on the individual class 1-A clear channel stations state there were 159,689 usable diaries used as the basis for this portion of the survey for the listening habits of those listeners outside of the "home market" area of the respective stations. DBA found that several of the counties were included within the daytime groundwave coverage area and, therefore, returns would not reflect skywave listening. An example is found in the KMOX, St. Louis, report, which includes Moultrie County, Illinois; but the actual measured daytime groundwave signal of KMOX (1120 Khz 50 Kw) is 1.0 Millivolt, throughout the county.

Furthermore, this Section III (Appendix) portion of the Arbitron report is for reported listenership both day and night, 24-hours a day, Monday through Sunday. It is not just nighttime listening.

ANALYSIS OF ARBITRON RADIO LISTENING SURVEY APRIL/MAY, 1975 COUNTY-BY-COUNTY MENTIONS OF CLEAR CHANNEL CLASS 1-A STATIONS 24 HOURS A DAY, MONDAY THROUGH SUNDAY, OUTSIDE THE CLEAR CHANNEL STATION'S "HOME MARKET" AREA

Class 1-A clear channel and location	Total—		Total diaries—		
	States	Counties	In-tab	Mention station	Percent of mention in tab
KDKA—Pittsburgh, PA	28	125	26,323	136	.517
KFI—Los Angeles, CA	17	83	18,652	242	1.297
KMOX--St. Louis, MO	29	178	29,216	269	.92
KSL—Salt Lake City, UT	25	125	20,199	245	1.213
WABC—New York, NY	39	173	30,845	353	1.144
WBAP—Ft. Worth, TX	28	149	14,686	233	1.586
WBBM—Chicago, IL	28	115	21,297	208	.9767
WBZ—Boston, MA	30	170	37,397	387	1.0348
WCAU—Philadelphia, PA	22	65	16,396	91	.555
WCBS—New York, NY	30	107	24,729	186	.752
WCCO—Minneapolis, MN	15	40	8,101	77	.95
WGN—Chicago, IL	22	66	10,552	191	1.81
WHAM—Rochester, NY	18	40	10,492	73	.696
WHAS—Louisville, KY	29	122	18,109	196	1.08
WHO—Des Moines, IA	28	127	18,457	313	1.6958
WJR—Detroit, MI	21	83	16,866	316	1.8736
WLS—Chicago, IL	32	536	38,018	1,102	2.898
WLW—Cincinnati, OH	29	230	29,255	735	2.5124
WMAQ—Chicago, IL	25	95	17,496	181	1.0345
WNBC—New York, NY	26	59	13,516	111	.8212
WOAI—San Antonio, TX	22	197	13,124	319	2.431
WSB—Atlanta, GA	17	80	14,503	135	.931
WSM—Nashville, TN	28	278	31,759	495	1.558
WWL—New Orleans, LA	30	288	34,677	309	.891
WWWE—Cleveland, OH	13	31	6,032	68	1.127
Totals			520,697	6,971	1.338

[1] Only 159,689 diaries in-tab.

We must remember that this 1.338% is not of the total U.S. Population of 205,000,000 (1970 census) but of just those counties in which diaries reported respondents actually listening to one or more clear channel stations. In fact, many of the counties from which diary reports were received were actually not in the so called "white" areas which the Clear Channels claim includes one-half of the land area of the U.S. and 26,000,000 population. Even if we gave them the benefit of the doubt, and figured their listenership on the basis of 1.338% of the 26,000,000, then all 25 Class 1-A Clear channel stations would only be reaching 347,880 people with their vast skywave night-time coverage.

How can we justify this terrible waste of spectrum space when almost one-fourth of the 107 AM broadcast channels reaches only 347,880 people?

For example: Let's analyze the States of Illinois and Georgia, the whole of which are both from just beyond the home market area of WSM (650 kHz 50 Kw) in Nashville, Tennessee. The nearest part of Illinois is a little more than 100 miles from Nashville and the farthest point is about 600 miles from Nashville; approximately the same is true of Georgia. They are both well within the skywave coverage area of WSM.

ILLINOIS

County	Population—1970	Diaries in Tab	Mention of WSM
Champaign	162,107	16	1
Clark	16,082	44	1
Livingston	40,229	8	1
Logan	32,872	24	2
McLean	103,308	542	5
Macoupin	44,633	28	2
Moultrie	13,028	5	1
Rock Island	164,915	234	3
Sangamon	159,432	40	2
Williamson	47,552	40	1
Winnebago	244,182	397	1
Total	1,027,620	1,378	20

Analysis.—WSM Skywave reached into 11 of 102 counties in Illinois. WSM reached 1.45 percent of 1,027,620 which is 14,914 listeners. This was only 0.136 percent of the total Illinois population of 10,977,908. Actually only 2 of the 11 counties were in "white" areas.

ARBITRON SKYWAVE LISTENING TO WSM IN WHOLE STATE OF GEORGIA

County [1]	Population—1970	Diaries in Tab	Mention of WSM
Bleckley	10,099	21	3
Carroll	44,364	25	2
Charlton	5,537	4	1
Chattahoochee	25,511	17	1
Cherokee	30,282	33	1
Crawford	5,548	4	1
De Kalb	414,085	353	4
Effingham	13,294	27	3
Grady	17,357	25	1
Habersham	20,263	12	2
Hall	58,352	59	4
Houston	61,574	139	2
Laurens	31,840	24	1
McDuffie	14,028	28	1
Marion	4,928	7	1
Rabun	7,656	5	1
Rockdale	17,814	16	1
Stephens	18,585	12	1
Talbot	6,513	12	1
Twiggs	8,111	40	1
Bib N–E	139,534	203	3
Muscogee N–E	164,240	298	1
Richmond N–E	160,851	243	3
Total	1,280,366	1,604	40

[1] 23 of 159 counties.

Analysis.—WSM Skywave reached into 23 of 159 counties in Georgia. WSM reached 2.5 percent of 1,280,366 which totals 32,009 listeners. This was only .71 percent of the total Georgia population of 4,492,038.

There are at least three (Lauderdale, Limestone & Madison) counties in northern Alabama (perhaps more) which are listed as outside the home market area but are within the 0.5 mv/m groundwave daytime coverage contour of the WSM signal. Therefore, the actual percentage of penetration would be less than the 1.558% shown on the listing. The Commission should thoroughly analyze the Arbitron data and make this important decision on this type of factual data and not on just the mail count of emotionally simulated letters by Clear channels.

The Arbitron Survey results have been further confirmed by a recent survey of listening preferences in the Mattoon, Illinois, telephone exchange area. This survey was conducted by the Lakeland Junior College Radio Class during the month of October 1976. The survey was conducted during daytime hours, under the direction of

the class instructor, Ken Beno, who is a graduate of radio broadcasting of Southern Illinois University, located at Carbondale, Illinois. Mr. Beno is also responsible for the direction and operation of Lakeland Junior College's Educational FM station, WLKL (FM). The station and college campus is located four miles south of Mattoon, Illinois. The Lakeland survey shows the preferences of people in a small market at a time and place where radio signals are available from five Class 1-A Clear channel stations (WLS, WGN, WBBM and WMAQ in Chicago and KMOX in St. Louis), all of which place a signal strength of from 1.0 to 2.0 Mv/m groundwave into the Mattoon area. Mattoon, Illinois population is 19,616 (1970 census).

The local Mattoon stations are WLBH and WLBH-FM, commercial broadcast stations and WLKL (FM) which operates with only 10 watts as a lab station to give students actual on-the-air experience.

A careful study and analysis of the results of this Lakeland College survey shows that 67.22% of the radio listeners are tuned to their local Mattoon stations even though many other listenable signals are available to them. A similar situation exists in a vast majority of the 1498 small market communities with a combined total population for their areas of 46 million people. People desire local radio broadcast service when available. The Lakeland survey shows that all five Class 1-A Clear channel stations had only 13.12% of the total listening audience. Daytime only stations had 43.45% listenership. The results of the Lakeland survey follow.

Station	Location	Approximate miles from Mattoon	Hours	Percent of homes listening to radio
WLBH—AM	Mattoon	Local	Daytime	35.25
WLBH—FM	Mattoon	Local	Fulltime	31.15
WLS [2]	Chicago	160	Fulltime	8.2
WEIC [1] AM—FM	Charleston	10	Fulltime	6.56
WKZI	Casey	25	Daytime	5.74
WMAQ [2]	Chicago	170	Fulltime	2.46
WACF—FM	Paris, IL	39	Fulltime	1.64
WFWA—FM	Sullivan	15	Fulltime	1.64
WILL—ED	Urbana	40	Daytime	1.64
WGN [2]	Chicago	170	Fulltime	1.64
KMOX [2]	St. Louis	120	Fulltime	.82
KXOK	St. Louis	120	Fulltime	.82
WCRA	Effingham	30	Daytime	.82
WLKL—FM	Mattoon—ED	Local	Fulltime	.82
WVTS—FM	Terre Haute	50	Fulltime	.82
Total				100.00

[1] Survey data did not show the separation of the WEIC AM and FM listeners.
[2] Class 1-A clear channel stations with 50 Kw power.
Local listening to Mattoon stations equal 67.22 percent.
In summary, the survey showed the following:
Fulltime AM and FM stations had 56.55 percent of the audience.
Daytime only (AM) stations had 43.45 percent of the audience.
FM Stations had 36.07 percent of the audience.
Class 1-A clear channel stations had 13.12 percent of the audience.

Keep in mind that the FCC obtained Arbitron survey which we have analyzed on pages 9 through 14 for full nighttime conditions of from 9:00 p.m. to 4:45 a.m. local time.

It should be generally acknowledged that the distant skywave listening during the transitional period of the day around sunrise and sunset would be far less than shown in the Arbitron survey. Furthermore, if daytime stations were permitted to operate from two hours before sunrise to two hours after sunset, as proposed in S. 880, LOCAL radio listening would be greatly enhanced and thousands of U.S. citizens would enjoy additional service from their local daytime broadcast station.

S. 880 would maintain the current broad mandate to the FCC to regulate broadcast in the "public interest, convenience and necessity." This is one of the main reasons our "AM" broadcast band is in the mess it is in today. How can we be proud of the fact that over half of our "AM" stations (2,450) are regulated OFF the air at sunset and 46,000,000 of our citizens are left without local "AM" broadcast service? Millions of dollars invested in broadcast equipment which must go silent when it should be serving people with LOCAL broadcast service.

The broad public interest charge by the U.S. Congress to the FCC has permitted this agency to regulate 2,450 "AM" stations off the air at sunset so that the remaining 2,400 fulltime stations can continue to broadcast with less competition. Of course, the claim is made that interference would be chaotic and that God created the radio wave propagation characteristics when he created the universe so nothing can be done about the situation. . . but God did not write the rules and the regulations . . . . God did not classify the "AM" radio broadcast channels. . . God did not say there shall only be six local Class IV channels and there shall 60 clear channels out of the 107 broadcast channels from 540 to 1600.

Survey after survey proves that our populace desires local radio broadcast service and there is heavy listening percentages to most of the local daytime-only stations which are forced to dump their local listeners every day at sunset. As radio broadcasting developed and grew over the years, starting in 1920, the larger cities and markets with greater population could economically support stations in the early days before the smaller markets could support their own local stations. The larger cities gobbled up most of the fulltime frequencies before stations could be established in smaller communities. The fact that the agency did not have the foresight to adequately classify and assign frequencies is no reason to forever continue and perpetuate this discriminatory system. These are matters which the U.S. Congress should rightfully be concerned about and must amend or rewrite laws, as in S. 800, to correct such inequities.

REMEDY PROPOSED IN FCC BC DOCKET NO. 82-538—HOURS OF OPERATION OF DAYTIME—ONLY AM BROADCAST STATIONS

The FCC took action on the above Docket and finalized their proceeding in September 1983.

Later, in October 1983, the FCC notified daytime only stations of the powers they would be permitted to operate Post-Sunset (PSSA). Many of the daytime stations were under the impression that they would be permitted to operate post-sunset with power similar to their pre-sunrise power, however this was not the case. A large number of daytime stations foiund that they would be permitted to operate post-sunset with less than 50 watts while they were permitted to operate pre-sunrise with 500 watts. In fact, 94% of all daytime stations would be limited to less than 300 watts of power and 47% of all Daytimers would have to operate with less than 50 watts of power during post-sunset, and 98 Daytimers would have to remain off the air all together after sunset. FCC BC Docket No. 82-538 shows the following:

Number of Daytime Stations	Power permitted in watts output
98	0
508	1-25
500	25-50
393	50-75
218	75-100
350	100-200
152	200-300
51	300-400
87	400-500

It is easy to realize the disappointment among the daytime stations when in October 1983, they received notice from the FCC of their extremely low powers they would be permitted to operate post-sun-set.

S. 880 correctly legislates the "transitional period" of the day to increase and improve LOCAL "AM" radio broadcast service via the more reliable groundwave signal as compared to the fading and skipping skywave signals of distant large stations.

The daytime-only stations would be signing-off the air at two hours after local sunset and going back on the air the next morning as early as two hours before local sunrise. Their service would be from a close in groundwave which is not subject to the skipping and fading characteristic of a skywave during the transitional period of the day. Granted, that the coverage area of the daytime station may be reduced some as compared to the middle of the day, but it would be a LOCAL reliable groundwave signal, serving local broadcast needs until two hours after sunset.

The following four pages are copies of the information sent to daytimers by the FCC in late October 1983, showing:

PSSA Power

3.8W. WHOW—1520 kHz 5000 W. Day (1000W.CH[1]) at Clinton, Ill.

4.6W. WLBH—1170 kHz 5000 W. Day DA at Mattoon, Ill.

28.7W WERT—1220 kHz 250 W. Day at Van Wert, Ohio.

155.5W WBAR—1460 kHz 1000 W. Day at Bartow, Florida.

The 3.8 watts at WHOW is worthless because the transmitter is 4-miles south of the city of license and due to the interference of other fulltime Class II and Class 1-B Stations, WHOW cannot get into town with only 3.8 watts of power.

WHBH in Mattoon can do very well with covering the local city because nulls of the two Class 1-B Clear channel stations (WWVA and KVOO) also protects the coverage of WLBH with 4.6 watts of power. WERT with 28.7 watts is worthless. WBAR can do very well on 155.5 W.

Advanced Notice of Parameters for Operation Under Post-Sunset Authority (PSSA)

(Post this letter with your current authorization)

WHOW, Cornbelt Broadcasting Co., P.O. Box 160, Clinton, IL 61727.

In accordance with Section 73.99 of the FCC Rules and Regulations, PSSA operation will be permitted until 6:00 p.m. local time. However, such operation may not begin until further notice.

Call sign: WHOW; freq: 1520 kHz; city: Clinton, State: IL.

PHASE 1 OPERATING PARAMETERS

Month	Antenna current conversion factor	Nominal power in watts	Hours min. past normal sign off
January	0.12	13.5	0:45
February	0.12	14.0	0:45
March	0.12	15.1	0:30
April	0.13	16.4	0:30
May	0.13	18.0	0:30
June	0.14	19.1	0:15
July	0.14	18.4	0:15
August	0.13	17.1	0:30
September	0.13	15.6	0:30
October	0.12	14.5	0:45
November	0.12	13.5	0:45
December	0.12	13.4	0:45

Phase 2 antenna current conversion factor 0.06 nominal power—3.8 watts.

Antenna system used: Critical hours (license).

Phase 1 of post sunset operation is the period beginning at licensed sign-off time and extending until sunset at the relevant Class I dominant station on your frequency.

Phase 2 begins at local sunset or at the end of phase one (if authorized that month) and extends to 6:00 p.m. local time.

Note: No operation beyond 6:00 p.m. local time is permitted—notwithstanding the hours listed above.

Advanced Notice of Parameters for Operation Under Post-Sunset Authority (PSSA)

(Post this letter with your current authorization)

WLBH, Mattoon Broadcasting Co., P.O. Box 1848, Mattoon, IL 61938.

In accordance with Section 73.99 of the FCC Rules and Regulations, PSSA operation will be permitted until 6:00 p.m. local time. However, such operation may not begin until further notice.

Call sign. WLBH; freq: 1170KHZ; city: Mattoon, State: IL.

[1] CH equals critical hours—2 hrs. after sunrise; 2 hrs. before sunset.

PHASE 1 OPERATING PARAMETERS

Month	Antenna current conversion factor	Nominal power in watts	Hours min. past normal sign off
January	0.04	9.2	0:45
February	0.04	9.4	0:30
March	0.04	9.7	0:30
April	0.05	10.3	0:30
May	0.05	10.8	0:15
June	0.05	11.1	0:15
July	0.05	10.9	0:15
August	0.05	10.5	0:30
September	0.04	9.9	0:30
October	0.04	9.6	0:30
November	0.04	9.2	0:30
December	0.04	9.1	0:45

Phase 2 antenna current conversion factor 0.03 nominal power—4.6 watts.

Antenna system used: Daytime (license).

Phase 1 of post sunset operation is the period beginning at licensed sign-off time and extending until sunset at the relevant Class I dominant station on your frequency.

Phase 2 begins at local sunset or at the end of phase one (if authorized that month) and extends to 6:00 p.m. local time.

Note: No operation beyond 6:00 p.m. local time is permitted—nothwithstanding the hours listed above.

Advanced Notice of Parameters for Operation Under Post-Sunset Authority (PSSA)

(Post this letter with your current authorization)

WERT, Wert Radio, Inc., P.O. Box 487, Van Wert, OH 45891.

In accordance with Section 73.99 of the FCC Rules and Regulations, PSSA operation will be permitted until 6:00 p.m. local time. However, such operation may not begin until further notice.

Call sign: WERT; freq: 1220KHZ; city: Van Wert, State: OH.

Maximum nominal power permitted during PSSA: 28.7 watts (Antenna input power during PSSA is not always the same as nominal power listed here.)

Antenna system used: Daytime (license).

Antenna current conversion factor: 0.34.

Advanced Notice of Parameters for Operation Under Post-Sunset Authority (PSSA)

(Post this letter with your current authorization)

In accordance with Section 73.99 of the FCC Rules and Regulations, PSSA operation will be permitted until 6:00 p.m. local time. However, such operation may not begin until further notice.

Call sign: WBAR; freq: 1460 kHz; city: Bartow, State: FL.

Maximum nominal power permitted during PSSA: 155.5 watts (Antenna input power during PSSA is not always the same as nominal power listed here.)

Antenna system used: Daytime (license).

Antenna current conversion factor: 0.39.

NOTE.—Antenna current or common point current permitted during PSSA is obtained by multiplying the antenna current conversion factor with the authorized antenna current or common point current. Antenna input power during PSSA is obtained by taking the square of the antenna current conversion factor and multiplying with the antenna input power listed on the station authorization.

NOTE.—No PSSA operation is permitted at this time. Notice will be given by the Commission upon signing of a new bilateral agreement with Canada, which is expected in the near future. Thereafter, such operation may commence only on submission of the following information to Chief, AM Branch, Audio Services Division, Mass Media Bureau Room 342:

1. Licensee name, station call sign and location

2. Indication that PSSA operation is intended by the station

3. A description of the method whereby any necessary power reduction will be achieved

NOTE.—PSSA is secondary to the basic instrument of authorization with which it to be associated. The PSSSA may be suspended, modified, or withdrawn by the FCC without prior notice or right to hearing, if necessary to resolve interference conflicts, to implement agreements with foreign governments, or in other circumstances warranting such action. Moreover, the PSSA does not extend beyond the term of the basic authorization.

NOTE.—Pertinent new agreements are being negotiated which are anticipated to permit PSSA two hours beyond sign-off times specified on the current license. Notice will be given when this 6:00 PM time restriction is terminated.

NOTE.—If there are any questions concerning your operation please call: Wilson A. LaFollette, Mass Media Bureau (202) 632-5414 or Jonathan David, Mass Media Bureau (202) 632-7792.

Federal Communications Commission,
Washington, D.C. 20554.

CONCLUSIONS

The passage of this Senate Bill S. 880 by this Sub-Committee and the subsequent passage by the full Committee and the U.S. Senate will be a great step forward in improving LOCAL "AM" Radio broadcast service to some 46,000,000 citizens of the United States.

All daytime-only stations will be off the air two hours after sunset and will remain off until two hours before sunrise. This will in no way endanger or change the conditions which exist at the present time for full skywave service at night when the best of skywave propagation conditions are in full force, from two hours after sunset to two hours before sunrise.

The great need for LOCAL "AM" radio broadcast service is just as great on one class of channel as on the other. A minimum of 500 watts power should be approved for that period of the day, from two hours before sunrise to sunrise and from sunset to two hours after sunset. From sunrise to sunset, the daytime station would operate with its regular licensed power. The minimum of 500 watts of power should apply to all daytimers on all classes of channels (Class 1-A, 1-B, both domestic and foreign plus the Class III Regional channels.)

The public need is most prevalent, especially in communities served only by a daytime "AM" station. In many of these areas there is only a weekly newspaper and the public depends upon their local daytime-only station for birth, death, school, church, wedding announcements and a host of daily services tailored to their local community of service. It is easy to understand why the small local daytime station is so vital.

In denying our citizens who choose to live in small towns the right and privilege of having their own LOCAL radio broadcast service, the Federal Government is engaged in the worst form of discrimination. Senate Bill S. 880 will extend the daytime station's broadcast day by two hours in the morning and two hours in the evening so that during winter months the local people can hear their station before they leave home to go to work and again in the evening when they return.

We highly support the passage of S. 880.

Senator PRESSLER. Thank you. You made some very stimulating comments.

We will go on to Dan Lucas from Clinton, NC.

Mr. LUCAS. I am Dan Lucas, coowner and operations manager of WRRZ, a 1,000 watt, daytime-only radiostation. WRRZ has been serving the local community since 1947.

It is rather ironic that we are discussing bill S. 880. WRRZ is on AM 880 frequency, a U.S. clear channel. And just for the record, I would like to point out that we are not assisted by any of the proposed changes that were discussed by the representative of the FCC.

In order to better serve the citizens of Sampson County and the surrounding area, we respectfully request positive action on S. 880, the daytimers' equity bill. We feel that our situation at WRRZ in

Clinton, NC is representative of the problems faced by daytimers perhaps all across the Nation.

Last Wednesday, March 28, 1984, at 3 p.m., the National Weather Service issued a tornado watch for the Sampson County area effective 3 p.m. until 10 p.m. We broadcast this and other weather-related information throughout the afternoon. At 6:55 p.m., the National Weather Service issued a severe thunderstorm warning. WRRZ was unable to inform the public of this potentially hazardous situation because, as a daytimer, we were required to sign off at 6:15 p.m. Approximately 2 hours after our broadcast day had ended, 10 people were killed by tornadoes spawned by this weather system. That is a rarity in our area.

At the time that we signed off, no emergency existed. However, if we had been allowed an extra 2 hours to serve the thousands of people who depend on us for local information, we may have been able to help.

If we had been allowed to remain on the air for an extra 2 hours on March 28, WRRZ radio could have provided local up-to-the-minute information until electric power was lost for the entire area.

Although this is an extreme and infrequent example of our problems, it is representative of our inability to do the best job of serving the needs of our community because of restricted operating hours.

During December and January, WRRZ cannot go on the air until 7:15 a.m. We feel our obligation to serve the community cannot be effectively met, since local weather and other information needs to be available to our citizens early in the day. Quoting superintendent of the Clinton City School System, James R. Simeon:

> It is necessary for me to contact the community whenever school operations must be delayed or canceled. The radio is a primary means of notifying our community of changes. School busdrivers leave their homes at 6:30 a.m. and many employees are on their way to schools between 6:30 and 7:00 a.m. A radiostation which does not go on the air until 7:15 a.m. cannot meet the needs of the school community. We must be able to depend daily on regular early broadcast hours. I strongly urge you to consent to this need by allowing WRRZ to begin earlier broadcasting each day.

That requested 2 hours before sunrise and 2 hours after sunset would allow WRRZ to regularly serve our citizens at the times referred to by the superintendent. Our contact with our audience leaves us to believe that many of our listeners depend primarily on WRRZ for local weather, news, agricultural information, notices of events in the area, information concerning closings of schools and factories, and numerous other items which concern only Sampson and surrounding counties.

In addition to this prepared testimony, I am also submitting several letters from people in our community who have seen the need for expansion of our broadcasting hours. Each of these letters, though independently written, serves as a testimony in itself concerning the need for extending operating hours to serve the local community.[1]

The WRRZ primary coverage area which includes all of Sampson County, the largest county in North Carolina, and also one of the

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[1] Retained in committee files.

leading agricultural counties in the United States, is largely an agricultural section. A significant part of our programing is directed toward the benefit of farmers. Present restrictions on our operating hours limit the amount of farm information we can provide. More importantly, our relatively late sign-on, varying from 6 a.m. to 7:15 a.m., and our early sign-off, as early as 5 p.m., keeps us from providing farmers with needed information at the times when they can most benefit from it, specifically, early morning and late afternoon or early evening.

It is also important that WRRZ be allowed to compete on a more reasonable economic basis with stations that have longer operating hours. It is impossible to serve many of the needs of our economic community when we cannot air a sponsor's commercials at or near the times requested or needed because of restrictions on our operating hours.

Our free enterprise system guarantees us the right to compete in a marketplace that is free of undue restrictions. Our ability to effectively serve our community is directly related to our ability to make a reasonable profit from the operation of our station. This profit allows us to continue and to expand our service to our community.

WRRZ radio serves the economic, social, and cultural interest of an area in southeastern North Carolina. Our broadcasting hours are limited because of potential conflict with the operation of other stations several hundred miles away.

We do not serve those areas, and they do not effectively serve us with useful programming for our listening audience. We would readily accept reduced operating power to avoid unnecessary interference. However, we feel that we are fully entitled to serve our audience a reasonable number of hours every day. Schools, factories, businesses, and church time schedules are consistent in our community. Operating hours of WRRZ are not only inconsistent, but so severely restricted that they are incompatible with other local schedules and needs.

We need presunrise and post-sunset authorization to better serve our community.

Just as an afterthought, I would like to add that this is what the audience hears after we go off the air at WRRZ. This tape was recorded in our studio on a Craig 5000 AM/FM receiver at about 6:55 p.m. this past Sunday, April 1.

[Tape recording played.]

Mr. LUCAS. Thank you.

Senator PRESSLER. That is an interesting example.

Next I will call on Mr. Bill Saunders.

Mr. SAUNDERS. Thank you, Senator.

I am Bill Saunders, and as a minority community leader, I have struggled for years to obtain recognition as a first-class citizen in America. I now find myself joining still another struggle to obtain first-class broadcasting citizenship.

I am currently the president and majority shareholder of a 100-percent owned black daytime operation. Our ratings share in this market is remarkable, considering the handicap of our sunrise to sunset operation. However, we are beginning to feel the competition of the authorized 24-hour AM/FM station that play black

music under the nonrelevant guise of an urban contemporary format.

I personally feel that it is a subtle form of discrimination when minorities are encouraged and given the opportunity to purchase a radio station. I base this on the fact that the offered property is usually a daytimer, with limited broadcast hours and limited signal strength.

The economic result is a failing minority investment group that is stuck with an albatross, a decaying, antiquated business that cannot be revived because of stringent Federal communications rules and regulations.

This subtle discrimination is further illustrated in a recent situation that occurred in our community. The city of Charleston, SC, has 12 AM/FM radio stations. Our predominantly black inner-city high school won the State 4A basketball championship. None of the radio stations with authorized nighttime operations felt it was significant to broadcast the playoffs that were held in Charleston, and to cap off this blatant insensitivity, not one of these stations carried the final competition that was held in a city 110 miles from Charleston.

Also, last Sunday, April 1, singer Marvin Gaye was killed, and the news came into Charleston about 5:15 p.m. We started getting calls from our listeners or people who were not even listening to us, but they heard the news, and every time something happens as relates to the black community, they want us to verify whether it is true or not. And we were able to come up with the news that it was true, but we had to sign off at 6:30 p.m. and it was not an emergency, but there were people that continued to call us. And I think that the kind of problem that we face as minorities is the same kind of problem that other people are facing as it relates to the rural area.

I recognize that the black community has access to the mass communications system. However, I feel that this system seldom interprets events of local, State, or National prominence in a perspective that the black community thoroughly recognizes and appreciates. I can provide lengthy declarations supporting our need for an extended broadcast day, but the bottom line is that I know that the black community needs and supports the efforts to obtain extended broadcast hours.

Thank you.

Senator PRESSLER. Thank you.

I think your example is a good one, where it is really not an emergency in a technical sense, but people are counting on you, and all of a sudden you disappear.

Next, I will call on Dr. Jackson.

Dr. JACKSON. Thank you, Mr. Chairman, members of the committee, for the opportunity to testify today on the issue of extended hours for daytime broadcasters.

My name is Charles Jackson. I am an engineer and communications consultant here in Washington. I am also an adjunct professor at Duke University. I serve as engineering counsel to the Daytime Broadcasters Association, and I am here today in that capacity.

Actually, I feel a little out of place today, out of place because the issue of extended hours for daytimers is not really an engineering issue or an engineering problem. Extending the operating hours of daytime only radio stations presents a public policy question. We engineers can only tell you about the tradeoffs you face when considering that question.

Unfortunately, the key underlying physical phenomenon of radio skywave propagation is complex and confusing. It makes it hard to explain those tradeoffs clearly. But basically speaking, AM broadcast signals can travel much farther at night than they do during the day through a mechanism known as skywave propagation. That extended range gradually builds up in the evening and falls off when morning comes.

The FCC took advantage of this daily variation in AM coverage by licensing AM radio stations restricted to broadcasting during the daytime only. The restriction of operation to the daytime period was a convenient simplification, an administrative convenience. Sunset is a concept everyone understands, and it occurs at about the same time AM radio waves begin to travel farther. In fact, just as the sky dims slowly at sunset, the range of AM signals grows at sunset and falls off gradually at sunrise.

To illustrate this part of the lecture, I too brought something to make it an illustrated talk. This is a graph which shows the diurnal curves that the FCC adopted in their recent rulemaking, which show the variation during time of the strength of the AM radio signal on a broad average basis. And 2 hours before sunset, the skywave signal starts building up and reaches, 2 hours after sunset, its nighttime level; then at sunrise, or actually 2 hours before sunrise, it starts decaying, and by an hour after sunrise, the skywave signal is quite a weak level.

Senator PRESSLER. You might turn that around so the people in the audience can see it.

Dr. JACKSON. I would like to make three points quickly from this graph.

First of all, the change in skywave service and interference to skywave service is quite gradual at sunset and sunrise. The skywave signals—by the FCC's diurnal curves—are always stronger in the morning than at the corresponding time in the evening; that is, the skywave, half an hour before sunrise, is stronger than half an hour after sunset.

There is nothing special about sunrise or sunset. If you look at the curves, rather than how they are labeled or something like that, you do not see anything particularly special about the time of sunset or sunrise; those times are another point in the curve. There is not a radical change in the nature of the skywave service at that point. Rather, it is changing smoothly over the entire area.

I might point out, by the way, that these curves are shown with a frequency of 1.6 megahertz which is usually on the far right of your AM dial where the two curves are most separated. If you go to lower frequencies, they tend to squeeze together a little bit, and if I used a lower frequency it would be harder to see the difference between the sunrise and sunset diurnal curves.

Now, last fall, the FCC modified its rules to take advantage of the radio-propagation characteristics shown in these graphs, and

thereby to allow daytime-only stations to operate up to 2 hours past sunset. In making the rule change, the FCC chose to make the most restrictive possible use of the diurnal curves.

Daytime-only stations were given the minimum increase in operating hours and power consistent with any recognition of the applicability of these diurnal curves. I might, after saying something so harsh and critical, mention that the Commission's order was an excellent piece of work, well explained, very well done. I disagree with all of the policy choices, but the technical work was first rate.

Let me just explain briefly these restrictive choices the Commission made. The Commission decided that daytime only stations could operate at only a single post sunset power level; that is, they looked at this curve and said if you are at 2 watts and you operate this late, you will not cause any interference. Now, if you are operating a little bit earlier, the diurnal propagation is not as severe. You could operate at a power higher than 2 watts.

So the allowed power allowed daytimers is lower than required for full protection during the entire period they are operating postsunset for all but the very last instant of that postsunset operating period. Indeed, under the theory of the diurnal curves, daytimers could really operate all night under the logic of the FCC's order.

Second, the FCC chose to apply the diurnal curve only to the calculation of the interfering signal of the daytime station, and not to the protected skywave signals of clear channel stations. Now, that choice made writing their computer programs a lot simpler. And if I were there on the staff, I would have made the same choice in order to make my job easier. But it tilts the table against the daytimers and against the public they serve.

I have two more examples of restrictive choices made by the Commission in my written testimony. They are more complicated and technical, and I do not want to get into them here.

In my opinion, the proposal in S. 880 to allow daytime only broadcasters to operate up to 2 hours after sunset while providing full protection to the groundwave service of existing AM broadcast stations would go far in remedying the shortcomings of the FCC decision; yet, at the same time, S. 880 would not substantially harm the evening skywave service at the clear channel stations.

As the bill is written, the daytime-only station must protect groundwave service contours of the clear channel stations, a contour which reaches out more than 100 miles. At most under S. 880, there would be a short period of interference lasting 1 hour, maybe 2 in the worst case, during the period where the skywave signal is weak and provides the least service anyway. The bulk of evening and night-time service by a clear channel station is still unharmed under S. 880. It will not hurt the vast body of real service provided by the clear-channel skywave service. It will not hurt the service provided by other channels at all.

The slight harm it does to skywave service will be more than offset, in my opinion, by the substantial increase in local service S. 880 allows. It is a proposal which gives substantial benefit at little cost. It deserves your careful attention.

Thank you.

[The statement follows:]

STATEMENT OF DR. CHARLES L. JACKSON

Thank you Mr. Chairman and members of the Committee for the opportunity to testify today on the issue of extended hours for daytime broadcasters.

My name is Charles Jackson. I am an engineer and communications consultant here in Washington. I am also an adjunct professor at Duke University. I serve as engineering counsel to the Daytime Broadcasters Association and I am here today in that capacity.

I feel a little out of place today—out of place because the issue of extended hours for daytimers is not really an engineering issue or an engineering problem. Extending the operating hours of daytimer-only radio stations presents a public policy question. Engineers can only tell you about the trade-offs you face considering this question.

Unfortunately, we engineers cannot even tell you too clearly about those trade-offs since the key underlying physical phenomenon, radio skywave propagation, is complex and confusing. (Some people might say that engineers can never explain anything clearly; but I will leave that question for another day.)

I hope that I can tell you enough about the underlying engineering facts so that you will find it easier to understand the trade-offs posed by S. 880, and similar proposals.

Basically speaking, AM broadcast signals can travel much farther at night than they do during the day through a mechanism known as "skywave propagation." The range of an AM signal during the night varies from one night to the next, from winter to summer, and with the number of sunspots on the sun! The range grandually builds up in the evening and falls off when morning comes.

The complexity of this variation makes it impossible to predict, in detail, how far broadcast signals in the AM band will travel at night. But, we can predict the distance travelled by a signal or predict the interfering potential of a signal on a probabilistic or average basis. That is, we can calculate how far the signal of a particular station will reach on 80 percent of the evenings. Or, we can calculate the level of interference one specific station would generate one night out of ten.

The FCC took advantage of this daily variation in AM coverage in the 1930s by licensing AM radio stations which were restricted to broadcasting during the daytime-only. These stations could provide useful local service during the day and yet did not create any interference at night. Of course, the restriction of operation to daytime period was a convenient simplification. The daytime-only policy roughly matched these stations' periods of operation with the period where they created the least interference to the long range "skywave" service of other stations.

Allowing these stations to operate on a daytime-only basis was an administrative convenience. Sunset is a concept everyone understands and it occurs at about the same time AM radio waves begin to travel farther. In fact, just as the sky dims slowly at sunset, the range of AM signals grows at sunset and falls off slowly at sunrise.

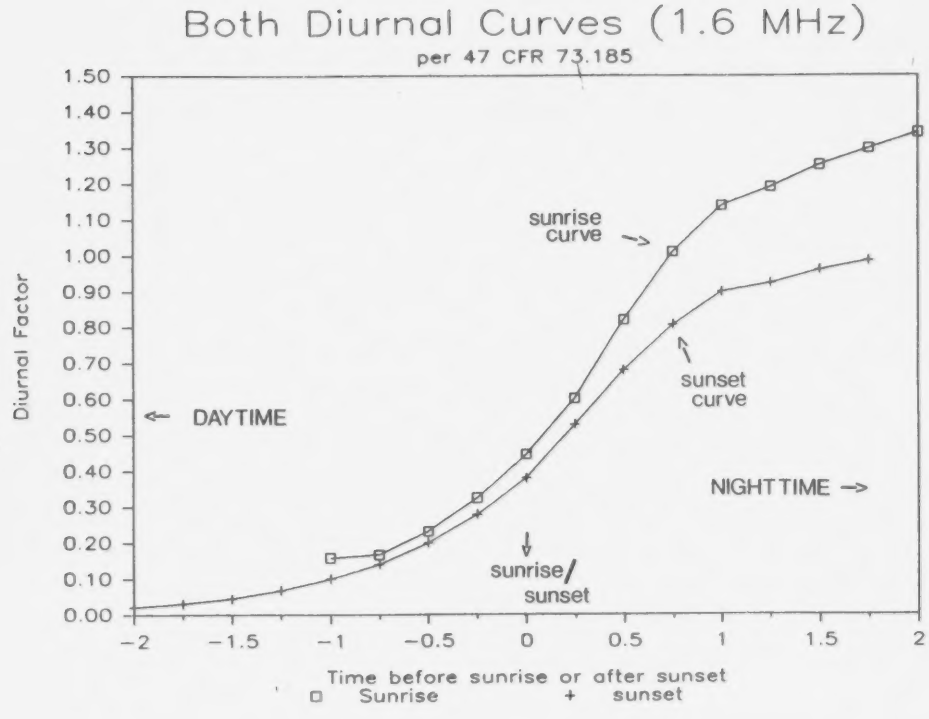
The graphs below show how the distant AM signals build up during the evening and fall off during the day. Both curves on each graph are calculated according to current FCC rules. The bottom curve, marked with plus signs "+," shows how the distant AM signal (the Skywave Signal) builds up during the evening. For example, an hour before sunset, the skywave signal is at 20 percent of the level it will reach at two hours after sunset. The top curve shows how the skywave signal falls off at sunrise. For convenience, the time scale is reversed so that the falling off goes from right to left. This allows the two curves to be easily compared. For example, the level of the curves above the 1.5 mark on the right side of the graph shows the strength of the skywave signal at 1.5 hours after sunset and at 1.5 hours before sunrise. (Note: These graphs show the average behavior of the skywave signal. Any specific night can vary greatly from the average.)

Looking at these graphs the following points are clear:

Skywave service—and skywave interference—changes gradually at sunset and sunrise.

Skywave signals are always stronger (that is, the diurnal factors are larger) in the morning than at the corresponding time in the evening. Whatever problems skywave interference creates, that interference is worse in the morning than at corresponding times in the evening.

There is nothing special about the time of sunrise or sunset itself on the diurnal curves. The skywave service changes smoothly during dusk and dawn.


Both Diurnal Curves (1.6 MHz)
per 47 CFR 73.185
Diurnal Factor
1.50
1.40
1.30
1.20
1.10
1.00
0.90
0.80
0.70
0.60
0.50
0.40
0.30
0.20
0.10
0.00
sunrise curve
sunset curve
DAYTIME
NIGHTTIME
sunrise/ sunset
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Time before sunrise or after sunset
Sunrise
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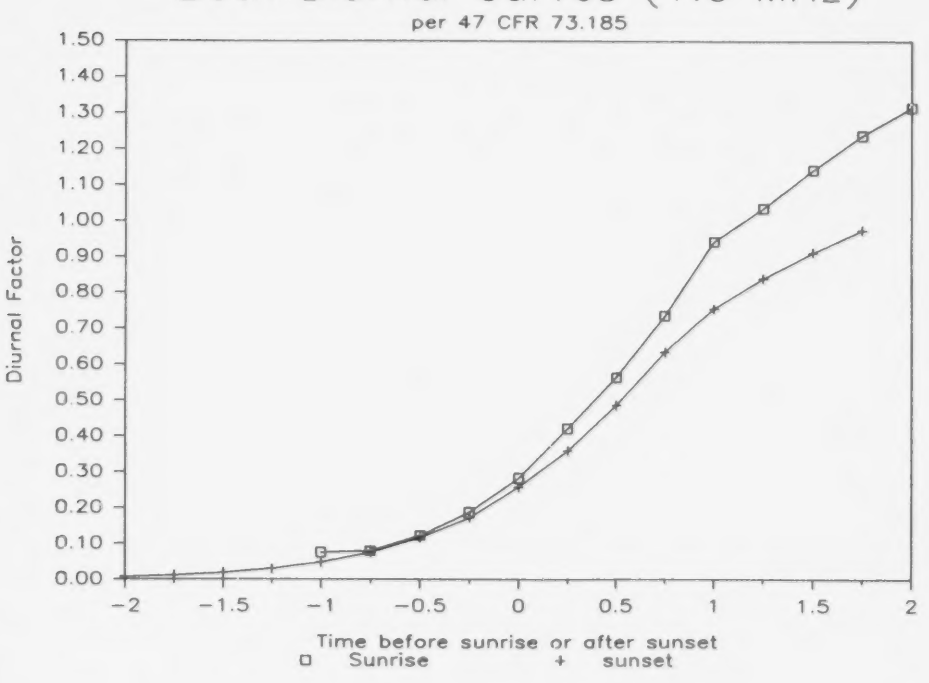
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0.5
1
1.5
2
Time before sunrise or after sunset
Sunrise
sunset

Last fall, the FCC modified its rules to take advantage of the radio propagation characteristics shown in these graphs and thereby to allow daytime-only stations to operate up to two hours past sunset. (As an aside, let me just mention that, while I disagree with many of the policy choices made in the FCC's order, it was an extremely well-done and professional document. The Commission should be proud of the work its staff did on this one. It is a model of the proper treatment of complex technical issues in a regulatory proceeding.)

Unfortunately, the FCC chose to make the most restrictive possible use of these diurnal curves and other related technical factors. It protected existing broadcast services to the maximum extent possible consistent with the theory of the diurnal curves. It made no social policy trade-offs. Existing services were fully protected or over-protected. Daytime-only stations were given the minimum increase in operating hours and power consistent with any recognition of the applicability of diurnal curves.

Let me explain briefly.

RESTRICTIVE CHOICE 1

The FCC decided that daytime-only stations could operate at only a single post-sunset power level. It chose to limit these post-sunset powers to the power level which would provide full protection at the end of the post-sunset operating period. Thus, the allowed power is lower than required for full protection, for all but the last instant of the post-sunset operating period. The Commission had other possible choices. It could have set a varying power limit for post-sunset operations matched to the time-varying diurnal curves. This would have provided full protection, but would have allowed far higher operating powers during most of the post-sunset period. If, for purposes of administrative simplicity, the Commission wanted to set only a single post-sunset operating power, it could have chosen an intermediate value of allowed operating power—say, the value which provides full protection at one hour after sunset. This level would be overprotective during the first hour after sunset, and would create some interference during the second hour.

RESTRICTIVE CHOICE 2

The FCC decided to apply the diurnal curve only to the calculation of the interfering signal of the daytime station but not to the skywave signals of protected clear channels stations. Rather, the protected skywave signals are assumed to be at their full protected level throughout the entire post-sunset period. Both the Daytime Broadcasters Association and the Department of Commerce had urged that the diurnal curves be applied to both the protected and interfering signals. The FCC's choice may make its computer programs a little easier to write, but the choice reduces the power level allowed some daytime broadcasters in the post-sunset period.

RESTRICTIVE CHOICE 3

The FCC chose to use the so-called ten percent skywave level in calculating interference from daytime stations operating extended hours to the skywave service of Clear Channel systems. While there is a sound rationale for the ten percent rule when calculating interference to groundwave service, that rationale is far weaker in the calculation of interference between skywave signals.

RESTRICTIVE CHOICE 4

The FCC chose to protect the very weak 0.1 mV/M groundwave and 0.5 mV/M skywave contours of the clear channel stations. These levels for protected signals were originally chosen long ago—before the widespread use of such sources of electrical interference as florescent lights, dimmer switches and home computers. Only three weeks ago, the FCC authorized Class IV AM radio stations to increase their nighttime power to 1000 Watts. One of the major reasons given by the FCC to justify this increase was "to reduce by 50 percent the nighttime program signal deterioration caused by man-made interference. . . ." Yet, the FCC did not take any account of this increased level of man-made interference over the levels existing in 1935 or 1940 when it set the power level of a signal from a Clear Channel station deserving protection from the extended hours operation of a daytime-only station. The FCC's protection of a week signal directly translates into a low-power limit for daytime stations operating extended hours.

In my opinion, the proposal in S. 880 to allow daytime-only broadcasters to operate up to two hours after sunset, while providing full protection to the groundwave service of existing AM broadcast stations, would go far to remedy the shortcomings

of the FCC decision. At the same time, S. 880 would not substantially harm the evening skywave service of the Clear Channel stations. During the beginning of the two hour post-sunset transition period, this skywave service does not exist at high enough levels to be useful to most potential listeners. At the end of the two hour period post-sunset, the daytime-only station must still go off the air. And, of course, as the bill is written, the daytime-only station must protect the groundwave service contours of the Clear Channel stations—a contour which reaches out more than a hundred miles. At most, there is a period of interference lasting an hour or two during the period where the skywave signal is weak and provides the least service anyway. The balk of evening and nighttime servie by a Clear Channel station is still unharmed.

S. 880 will not hurt the vast body of real service provided by the Clear Channel skywave service and will not hurt the service provided by other stations at all. The slight harm it does to skywave service will be more than offset by the substantial increase in local service it allows. S. 880 is a proposal which gives substantial benefits at little cost and it deserves your careful attention.

Senator PRESSLER. Thank you, Dr. Jackson.

In your statement, you say that the skywave interference is worse in the morning than at corresponding times in the evening. If that is the case, why do you think the FCC gave many daytimers much lower post-sunset power levels in comparison to the presunrise power levels?

Dr. JACKSON. Well, I think there were two reasons for that. One is that it was in accord with past practice. I think if they had told current daytime broadcasters that they had to cut back their presunrise service from 500 watts to 10 watts, that there would have been substantial political complaints, not only by the broadcasters themselves, but also by the affected communities that lost service.

Since there was nobody pushing—or I guess one of the clear channel groups did push for that logic, but there was not any substantial political push for that cutback—they saw no need for the cutback.

On the other side, I think it is a much harder political situation where they face some perception of added interference during the evening period and also the concern by some broadcasters of the added competition that is created by daytimers operating postsunset and able to sell more advertising in their market.

So I think it was a political decision that the Commission made, consistent with the logic of the engineering rules.

Senator PRESSLER. I have another question for Dr. Jackson. Can you expand upon your point that the FCC made no social policy tradeoff in its 1983 rules? What tradeoffs would you recommend?

Dr. JACKSON. Well, the one that I think seems most appealing would have been for them to pick an intermediate power level, one that is fully protective for the first hour of the transition period, and underprotective for the second. Then they get a little bit more service in the first half and create, under the logic of the rules, a little bit of interference during the second half, but still maintain the administrative simplicity of a single operating level.

I also think it would be possible to allow broadcasters to operate at a variety of power levels, slowly dropping off their post-sunset power as the skywave comes in. I think that the Commission also could have chosen to protect a stronger signal, both skywave and groundwave, at the clear-channel stations than it did.

They chose to protect a very weak signal level, the 100-microvolt groundwave and 500-microvolt 50-percent skywave, which is a

signal level that has been protected by regulation in this country for something like 30 years—before we had sources of interference in households, such as electric light dimmers and fluorescent lights, home computers.

I was driving back from Lynchburg last week, part of the way listening to a clear-channel radio station, WBZ out of Boston, listening to it quite clearly until I drove into a service station to get some gas. I drove up to the pump which had a fluorescent light, and immediately the signal was blotted out by interference from the fluorescent light.

The signal levels that the FCC protected are useful in some listening situations, but not as universally useful as they were in 1940.

Senator PRESSLER. Bill Saunders, could you expand upon your testimony that S. 880 will help minority station owners? Is it the idea that for many minority owners, their first broadcast property often is a daytime station?

Mr. SAUNDERS. Well, because most of the people that are in broadcasting recognize the shortcoming of daytime properties, and so they have sold off their daytime properties that they could, and minorities never having the opportunities to be involved, picked up on those properties.

And I feel that with the extended hours, it really would put us at least being competitive in those areas. I feel that at 8 o'clock at night basically, I think that most of the people that need the kind of service could get it through TV or through other means, but I think up to that point—and always my problem has been in broadcasting that no matter what my community hears from the other broadcasters, they want us to verify that what they heard has been the truth. And I think this is another thing that is so important for the minorities, but also it is an economic question.

Senator PRESSLER. Our time is closing in on us.

I want to thank you for coming. Your testimony is very significant. It has been an illustrative panel in a couple of ways, and I think the different points of view here were very useful.

Thank you very much.

Now I will call Thomas S. Glade, president of Clear Channel Broadcasting Service, and also Wallace E. Johnson. I understand that Senator Hatch is here. Senator, would you like to introduce Mr. Thomas S. Glade?

Senator Hatch.

Senator HATCH. Mr. Chairman, I am happy to be here today to introduce to this committee a friend of mine, and truly one of the real workers in today's communications industry.

Tom Glade is from pioneer stock in the broadcasting industry. His father, Earl, pioneered much of what is common in today's communication world, and is now the executive director of the Utah Broadcasters Association.

Tom began his career at Brigham Young University in Provo, UT, not in communications but in the medical profession. But he turned away from the scalpel, and instead took up the quill. Through career as a top salesman at KSL radio in Salt Lake City, through his current position as station manager, Tom saw the busi-

ness grow into what his listeners know KSL to be—the crossroads of the West.

His leadership in the field is known by his colleagues in the business, not only in Utah, but across the Nation, as he is currently president of the Clear Channel Broadcasters, a group of stations with the power to broadcast their message to millions across the Nation.

He, then, is not only aware of the problems of the local broadcasters and listeners at the local origin, but those audiences in faraway places, in rural areas, with no broadcast facilities of their own.

Mr. Chairman, I am sure that you will find through Tom's testimony that he has followed closely the work of this committee and will have something important to contribute. So it is really a pleasure to introduce Tom to the committee.

I am also happy to be here today, because I wanted to introduce another friend of mine, John Hinton, who testified earlier from West Jordan, UT, but I was chairing my own subcommittee on the Constitution. But I understand his testimony was excellent, and I just commend him to you as well, Mr. Chairman. And I thank you for giving me this time at the beginning of this hearing.

Senator PRESSLER. Thank you.

I am glad you have come here to introduce your constituents, and we look forward to their testimony and we very much appreciate your coming.

Senator HATCH. Thank you.

Senator PRESSLER. With that, I will call on Thomas S. Glade for his testimony.

STATEMENTS OF THOMAS S. GLADE, PRESIDENT, CLEAR CHANNEL BROADCASTING SERVICE, ACCOMPANIED BY JOHN L. BARTLETT, LEGAL COUNSEL; AND WALLACE E. JOHNSON, PRESIDENT AND EXECUTIVE DIRECTOR, ASSOCIATION FOR BROADCAST ENGINEERING STANDARDS, INC.

Mr. GLADE. Thank you, Mr. Chairman.

As you indicated, I am Thomas S. Glade, president of Clear Channel Broadcasting Service, abbreviated CCBS, an informal organization of class I clear channel stations. In addition to serving as president of CCBS, I am vice president and station manager of KSL radio, a class I-A clear channel AM station located in Salt Lake City, UT.

With me today is the legal counsel for CCBS, R. Russell Eagan and David E. Hilliard, and engineering counsel Harold L. Kassens, as well as legal counsel for KSL radio, Glen A. Wilkinson. And they are with me and available to answer any questions you may have, as am I.

And with me on the panel is John L. Bartlett, who also is legal counsel for CCBS.

Before turning to my prepared remarks, I would like to make a brief observation about the two panels which have gone before us. The composition of those panels geographically underscores our view that extended hours for daytime broadcast stations will not provide first local service to any significant number of communi-

ties, but it would deprive many listeners in the Nation's white areas of their only service.

With one exception, all the broadcasters on the preceding panels currently operate full-time FM stations, and there are currently FM channels available in some of those communities. The only exception is Mr. Saunders of Charleston, SC. Charleston has a number of full-time stations serving it. Moreover, Mr. Saunders and Mr. Wychor may be able to convert to full-time operation under the new Mexican agreements soon to be concluded.

The issue presented in S. 880 is not the interests of one class of station, daytime only, versus another class, full time. Rather, the issue relates to the interests of one class of listener, those not receiving groundwave service at night, versus another class, those who receive either no groundwave service at night or just one such service.

Those listeners without any or just one nighttime groundwave service must rely on clear channel nighttime skywave service for either their only or their only choice of nighttime service. This clear channel service would be eliminated by S. 880 due to interference.

It is a myth that daytimers operating at night would bring first local service to millions. Millions are indeed without local AM service at night, but these millions reside in the "white" areas, beyond the reach of groundwaves. Most communities with daytime stations receive nighttime groundwave service from other existing full-time AM and or FM stations in the same or nearby community. Most of the few cities without full-time service have unused FM assignments.

For example, in South Dakota, all but 2 of the 14 cities with daytime stations have full-time AM and/or FM stations. The two cities concerned, Milbank and Redfield, have unused FM assignments. Enactment of S. 880 might be equitable to the daytime stations, but would be inequitable to the American public. S. 880 is contrary not only to the public interest, but also unnecessary.

The Federal Communications Commission recently completed an extensive rulemaking proceeding in which the agency after carefully weighing the gains and the losses from extending the hours of daytime stations issued a reasoned resolution. The laws of physics severely limit what can be done. Groundwave AM radio service can be provided at night to only half the land area of the coterminus United States, and the area not reached by groundwave can be served only by AM clear channel skywave service.

Mindful of the physical constraints, the FCC gave as much as it could to the daytime stations consistent with the public interest. Anything more would lead to severe impairment of the nighttime service now provided by full-time class I and class III stations. Of extreme importance is the fact that the only nighttime AM radio service received from class I clear channel skywaves by more than approximately 26 million unserved and underserved Americans who live and travel through the vast radio deserts that comprise over half the land area of the coterminus United States would be eliminated by S. 880.

In reaching this extended hours decision, the FCC considered and resolved all the public interest, technical, and equitable issues pre-

sented by S. 880, and arrived at a reasoned and balanced decision that renders S. 880 moot. Charged by Congress to preserve and promote the public interest, the FCC correctly determined the valuable nighttime AM radio service provided by full-time stations, especially wide area skywave coverage of clear channel stations to millions of Americans, required continued protection from interference.

Clear channel stations are very cognizant of the programming needs of their white area listeners, and those listeners are very appreciative of and rely on the service provided by clear channel stations. CCBS recognizes the valuable service provided by daytime stations, and does not oppose increasing the number of communities having access to their own local nighttime radio service. However, the public interest requires protection of white area skywave coverage for millions of Americans who depend on it as their only or only choice of nighttime radio service.

Intolerable interference would result from daytimers broadcasting at greater powers for longer periods of time than authorized by the FCC. While S. 880 might provide some new service to a relative few, most of whom have local nighttime groundwave service, it would take away much needed service from millions who have no or just one nighttime groundwave service. FM, rather than extending the hours of daytimers, is a better alternative for providing additional nighttime radio service without degradation of the clear channel service. Many communities with daytime stations have unused FM assignments. Further, the Commission recently proposed to allocate new FM channels throughout the country to almost 650 communities. Even today, most communities with daytime only stations have access to local nighttime radio service from fulltime AM and/or FM stations, often co-owned with the local daytime station.

Of the approximately 2,300 daytime stations, over 1,000 have co-owned FM stations, and many others have unused FM assignments available to them. The few benefits S. 880 would provide to daytime stations are vastly outweighed by the severe detriment it would cause to millions of American listeners as a result of interference to existing radio service. S. 880 should not be enacted because it would lead to significant degradation of existing nighttime service provided by fulltime stations, and would eliminate white area clear channel skywave service that millions of Americans depend on.

Thank you very much.

[The statement follows:]

STATEMENT OF THOMAS S. GLADE, PRESIDENT, CLEAR CHANNEL BROADCASTING SERVICE (CCBS)

Mr. Chairman and members of the Committee, I am Thomas S. Glade, President of Clear Channel Broadcasting Service ("CCBS"), an informal organization of Class I Clear Channel stations. In addition to serving as CCBS President, I am vice-president and station manager of KSL, a Class I-A Clear Channel AM station, located in Salt Lake City, Utah. CCBS legal counsel (R. Russell Eagan and David E. Hilliard) and engineering counsel (Harold L. Kassens), as well as legal counsel for KSL (Glen A. Wilkinson), are with me and are available to answer any questions you may have—as am I. CCBS legal counsel, John L. Bartlett, appears on the panel with me.

The issue presented by S. 880 is not the interests of one class of station (daytime-only) versus another class (full-time). Rather, the issue relates to the interests of one

class of listeners (those now receiving groundwave service at night) versus another class (those who receive either no groundwave service at night or just one such service). Those listeners without any or just one nighttime groundwave service must rely on Clear Channel nighttime skywave service for either their only or their only choice of nighttime service. This Clear Channel service would be eliminated by S. 880 due to interference. (See Interference Caused by Skywaves, Exhibit 3, attached hereto.[1])

It is a myth that daytimers operating at night would bring a first local service to millions. Millions are indeed without local AM service at night—but these millions reside in the "white" areas beyond the reach of groundwave. (See White Area Map and Charts, Exhibit 4, attached hereto.) Most communities with daytime stations receive nighttime groundwave service from other existing full-time AM and/or FM stations in the same or nearby communities. Most of the few cities without such full-time service have unused FM assignments. For example, in South Dakota all but 2 of the 14 cities with daytime stations have full-time AM and/or FM stations and the two cities concerned (Milbank and Redfield) have unused FM assignments. (See South Dakota Radio Stations, Exhibit 2, attached hereto.)

Enactment of S.880 might be "equitable" for daytime stations but would be inequitable to the American public. S.880 is contrary not only to the public interest but also is unnecessary. The Federal Communications Commission recently completed an extensive rulemaking proceeding in which the agency, after carefully weighing the gains and losses from extending the hours of daytime stations, issued a reasoned resolution.[2] The laws of physics severely limit what can be done. Groundwave AM radio service can be provided at night to only about one-half of the land area of the conterminous United States, and the area not reached by groundwave can be served only by AM Clear Channel skywave service. (See White Area Map and Charts, Exhibit 4, attached hereto.) Mindful of such physical constraints, the FCC gave as much as it could to daytime stations consistent with the public interest.[3] Anything more would lead to severe impairment of nighttime service now provided by full-time Class I and III stations. Of extreme importance is the fact that the only nighttime AM radio service received from Class I Clear Channel skywave signals by more than approximately 26 million unserved and underserved Americans, who live in and travel through a vast radio desert that comprises over one-half of the land area of the conterminous United States, would be eliminated by S.880 (See Exhibits 3 and 4.)

In reaching its extended hours decision, the FCC considered and resolved all of the public interest, technical and equitable issues presented by S.880 and arrived at a reasoned and balanced decision that renders S.880 moot. Charged by Congress to preserve and promote the public interest, the FCC correctly determined that the valuable nighttime AM radio service provided by full-time stations, especially the wide-area skywave coverage of Clear Channel stations to millions of Americans, required continued protection from interference. Clear Channel stations are very cognizant of the programming needs of their wide-area listeners and those listeners are very appreciative of and rely on the services provided by Clear Channel stations. (See Exhibits 5–8.)

CCBS recognizes the valuable service provided by daytime stations and does not oppose increasing the number of communities having access to their own local nighttime radio service. However, the public interest requires protection of wide-area skywave coverage for the millions of Americans who depend on it for their only or only choice of nighttime radio service. Intolerable interference would result from daytimers broadcasting at greater power for longer periods of time than authorized by the FCC. While S.880 might provide some new service to a relative few, most of whom now have local nighttime groundwave service, it would take away much needed service from millions who have no or just one nighttime groundwave service.

FM, rather than extended hours for daytimers, is the better alternative for providing additional local nighttime radio service without degradation to existing Clear Channel service. Many communities with daytime stations have unused FM assignments. Further, the Commission recently proposed to allocate new FM channels throughout the country to almost 650 communities. Even today, most communities with a daytime-only station have access to local nighttime radio service from full-time AM stations and/or FM stations, often co-owned with a local daytime AM sta-

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[1] The exhibits referred to have been retained in the committee files.

[2] *See* First Report and Order, Docket No. 82-538, 48 Fed. Reg. 42944 (1983).

[3] Daytime stations applied for licenses knowing of the sunrise to sunset operating hours imposed due to the laws of physics, which have not changed.

tion. Of the approximately 2,300 daytime stations, over 1,000 have co-owned FM stations and many others have unused FM assignments available to them.

The few benefits S. 880 would provide to daytime stations are vastly outweighed by the severe detriment that would be caused to millions of American listeners as a result of interference to existing ratio service. S. 880 should not be enacted because it would lead to significant degradation of existing nighttime service provided by full-time stations and would eliminate wide-area nighttime Clear Channel skywave service that millions of Americans depend on.

SUPPLEMENTAL COMMENTS OF THOMAS S. GLADE

CLEAR CHANNEL BROADCASTING SERVICE (CCBS)

CCBS is an informal organization of Class I Clear Channel stations located throughout the country that are committed to serving not only their own communities of license, but also the small towns and rural areas encompassed by their extensive groundwave and skywave coverage. Because nighttime groundwave service can be provided to only one-half of the land area of the conterminous 48 States (see White Area Map, Exhibit 4, attached hereto) due to the unique propagation characteristics of the AM band, the public interest requires that Clear Channel wide-area groundwave and skywave coverage be protected from interference. Class I Clear Channel AM stations provide: (i) the only nighttime AM broadcast service to millions of Americans who live in or travel through regions comprising approximately one-half of the land area of the conterminous United States and (ii) the only choice of nighttime AM broadcast service to additional millions.[4]

Over the years, Class I Clear Channel stations have provided the more than 26 million Americans who reside in the vast AM radio desert, also known as the "white" area because of the way it is depicted on radio coverage maps (*see* White Area Map, Exhibit 4, attached hereto), and the countless travelers who pass through, with their *only* nighttime AM radio news, sports, entertainment, public service and emergency programming. Additional millions who reside in and travel through "gray" areas, which receive only one acceptable nighttime AM groundwave signal (*see* White Area Map, Exhibit 4, attached hereto), depend on Clear Channel skywave signals for their *only choice* of nighttime AM service.

S. 880 would impair service to rural area residents and travelers without a counterbalancing increase in high quality service by daytime-only stations during the extended hours of operations

Because of the laws of physics, any increase in transmitting power and/or extension of operating time for daytime-only stations beyond the limits recently set by the FCC in Docket No. 82-538 inevitably would impair the valuable service rendered by regional stations and would eliminate the Clear Channel service provided to millions living in and traveling through the nation's "white" and "gray" areas with little countervailing improvement in service to a few, most of whom now receive other local groundwave service. Thus, permitting daytime stations to operate presunrise and post-sunset beyond the recently established FCC limits would be contrary to the public interest. The interests of listeners must prevail over the interests of stations.

The proponents of S. 880, and similar legislation that would lead to increased nighttime power and/or operating time for daytime AM stations beyond the limits recently set by the FCC, fail to recognize that such action would erode substantially, and in most instances virtually destroy, existing nighttime AM skywave coverage to vast areas of the country, thereby depriving millions of Americans of radio service on which they depend.[5] As such, S. 880 is not only contrary to the public interest, but indeed is completely unnecessary. All of the issues presented by S. 880 already have been considered and resolved by the FCC, the expert agency created by Congress to handle such communications issues.

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[4] Even when FM service is considered, over one-third of the land area of the conterminous United States does not receive satisfactory nighttime groundwave coverage—and nearly 4 million persons live in this area.

[5] Even the FCC abandoned its original proposal in Docket No. 82-538 to permit daytime stations to operate with 500 watts until 6:00 p.m. without regard to co-channel protection. The agency's studies determined that "significant interference" would be caused to existing full-time stations. See First Report and Order, supra and (FCC Estimate of Service Loss to Full-Time Stations, Exhibit 1, attached hereto.)

The FCC already has examined and resolved the extended hours issue

In Docket No. 82-538, "Hours of Operation of Daytime-Only AM Broadcast Stations," the FCC afforded all interested parties ample opportunity to express their views on whether and to what extent daytime-only AM stations should be allowed to operate during pre-sunrise and post-sunset periods. Many parties, including daytime-only stations and their association, submitted lengthy initial and reply comments. After careful analysis and evaluation of the technical, equitable and public interest aspects of the extended hours issue, the FCC arrived at a reasoned and balanced decision. The FCC's decision permits daytime-only stations to broadcast during pre-sunrise and post-sunset periods with up to 500 watts power, reduced as necessary to avoid interference to full-time stations. See First Report and Order, supra.

Thus, the public interest benefits which result from the Commission's well-reasoned decision include longer hours for daytime-only stations and their local listeners, as well as protection of full-time Regional and Clear Channel groundwave service and protection to Clear Channel skywave coverage This protection redounds to the benefit of millions of unserved and underserved Americans who depend on such wide-area skywave service. By not permitting undue degradation of wide-area skywave service, the FCC has preserved the public interest by ensuring that all Americans will have access to interference-free nighttime AM programming. In the case of the more than 26 million Americans who live in and travel through the "white" area radio desert, wide-area skywave service represents their only opportunity for nighttime AM programming.

Along with the recently extended operating hours of daytime stations, additional full-time FM service also will be available in the near future. The FCC in Docket No. 80-90 recently proposed the addition of almost 650 new FM assignments to communities throughout the country. At least 25 percent of these new assignments are in communities where daytime-only stations could apply. The new FM stations will be able to provide 24-hour radio service without interfering with existing nighttime AM wide-area skywave coverage. Thus, many of the few communities having only local AM radio service from daytime stations now have FM also available.

Indeed, if Congress is concerned about identifying and providing radio service to those communities in rural and remote areas of the country that currently are unserved or underserved, it should examine the carefully considered method employed by the FCC to determine which communities would be eligible for the new FM channel assignments. Under its methodology, the FCC identified only 352 communities that have daytime-only AM radio stations and also are located more than 10 miles from cities with populations of at least 25,000. *See* Notice of Proposed Rule Making, MM Docket No. 84-231, FCC 84-66, released Mar. 14, 1984.

To the extent these hearings may serve as a forum to send a message to the FCC, CCBS believes that the public interest would be served by permitting any daytime-only station to apply for the new Docket No. 80-90 FM stations without any diversification disadvantage. It is not at all uncommon for local AM and FM stations to be co-owned and many daytime AM stations now operate companion FM stations. In fact, as of 1979, of the approximately 2,300 daytime stations, 1,067 were co-owned with FM stations.[6]

Most communities are adequately served by full-time radio coverage

Even today without the new FM stations, there are relatively few communities with daytime stations that do not have access to full-time radio programming from stations in the same or nearby communities. For example, of the 14 South Dakota communities having a daytime-only AM station, all but 2 (Milbank and Redfield) have either their own FM station or another full-time AM station. See Broadcasting/Cablecasting Yearbook 1983, at B-220 to 222, and (South Dakota Radio Stations, Exhibit 2, attached hereto.) And, even those two communities receive radio service from nearby full-time regional stations—Milbank from Watertown and Ortonville, and Redfield from Aberdeen. Moreover, under the existing table of FM channel allocations, both Milbank and Redfield already have been assigned an FM channel by the FCC. See 47 CFR § 73.202. Additionally, under Docket No. 80-90, the FCC proposes to assign a second FM channel to Redfield. (See Exhibit 2, attached hereto.)

Besides the extended operating hours lately granted daytimers by the FCC, the recent bilateral agreement between the United States and Canada will permit daytime stations, operating on Canadian Clear Channels, to extend their hours of operation as long as they protect the coverage of Canadian Clear Channel stations.[7] A

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[6] See Appendix A of Comments of Clear Channel Broadcasting Service (CCBS), filed with the FCC July 10, 1979, in Docket No. 20642.

[7] See Notice of Proposed Rulemaking, MM Docket 84-281, FCC 84-49, released Mar. 22, 1984.

similar agreement between the United States and Mexico is expected soon. Over 500 daytime stations could benefit from these agreements.

Millions of unserved and underserved Americans rely on clear channel service

Public interest considerations strongly militate against extending the hours of operation or the power of daytime-only stations beyond the FCC's recently established limits in Docket No. 82-538. The immutable physical properties of AM skywave propagation during nighttime conditions have long been recognized. (See Interference Caused by Skywaves, Exhibity 3, attached hereto.) Extending the hours of operation and increasing the power of daytime-only stations operating on United States Clear Channels and full-time Regional Channels is not consistent with these physical properties or with the goals of ensuring the availability of at least one AM broadcast service to all areas of the country 24 hours a day, and of maximizing the number of high-quality radio signals available throughout the United States during nighttime hours.

In 1938, there were 503 full-time AM stations in the United States. In 1974, there were 2,125 such stations. Nevertheless, the size of the "white" areas in the conterminous United States and the unserved population in those areas have remained relatively constant over that time—slightly more than half the land area and approximately 26,000,000 people, respectively. (See White Area Map and Charts, Exhibit 4, attached hereto.) Morever, approximately four million people in the United States would receive no nighttime AM or FM service without the availability of Clear Channel skywave signals. See Clear Channel Broadcasting, 78 FCC 2d 1345, 1354 (1980).

KSL, for example, is the only Class I-A Clear Channel station in the Rocky Mountain area. It is located between the north and south boundaries of the 48 conterminous States and approximately centered in a vast area which has no nighttime groundwave AM or FM service. Because of its location, KSL is uniquely situated to provide wide-area nighttime service to millions of Americans living in and traveling through these unserved and underserved areas in the intermountain west.

A recent engineering study [8] showed that the population receiving no nighttime AM groundwave service and within the KSL 0.5 mV/m 50% skywave contour in 1962 was 3,990,000—an area of 1,027,000 square miles. In 1975 the population with no nighttime AM groundwave service and within the KSL 0.5 mV/m 50% skywave contour was 3,721,000. The corresponding "white" area as of that date was 943,940 square miles. During the 13 year period from 1962 to 1975, the population without nighttime AM groundwave service declined by only 269,000 persons. There is nothing to indicate there has been any significant changes in such figures between 1975 and the present. Passage of S. 880 thus would result in a severe reduction, if not virtual elimination, of all nighttime AM radio service to approximately 3,000,000 to 3,500,000 persons in the present KSL 0.5 mV/m 50% skywave contour.

KSL's situation is not unique. The interference resulting from daytime-only stations operating beyond the limits established by the FCC in Docket No. 82-538 would impair significantly—and, in some cases, virtually destroy—the wide-area nighttime skywave service provided by all Clear Channel stations. Clear Channel skywave signals provide a broad range of programming to residents and travelers in rural and remote areas, including: (i) comprehensive farm reporting geared to the needs of farmers throughout the various stations' skywave service areas; [9] (ii) wide-area weather reports (see KSL Role In Development of Agricultural Weather Forecasting System, Exhibit 6, attached hereto); (iii) sports programming which is otherwise unavailable; (iv) talk programs that tie together listeners from many regions; (v) and a diversity of music formats. Clear Channel stations, thus, are very much aware of the needs of their wide-area listeners [10] and those listeners rely on and are very appreciative of the services provided by Clear Channel stations. (See Letters, Exhibit 8, attached hereto.)

In fact, even a recent survey commissioned by the Daytime Broadcaster's Association ("DBA") demonstrates the need to preserve such nighttime wide-area service. DBA found that fully 16.5 percent of the residents of South Pittsburgh, Tennessee, a

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[8] See Engineering Statement of Jules Cohen and Associates in Comments of Bonneville International Corporation (KSL), filed with the FCC July 10, 1979, in Docket No. 20642.

[9] For example, radio station WHO, 1040 KHz in Des Moines, Iowa, broadcasts numerous reports daily during the proposed extended hours dealing with farm news; closing farm markets and livestock terminal receipts for eight locations in five states across the region; plus weather reports covering eleven states. (See WHO Farm Broadcast Schedule, Exhibit 5 attached hereto.)

[10] KSL, for example, often has been the major, if not only source of news and emergency information to many wide-area listeners. (See News Events in which KSL Radio was Involved, Exhibit 7, attached hereto.)

small community located approximately 125 miles southeast of Nashville, Tennessee, with only a daytime station, listened at night to WSM, a Nashville Clear Channel station (see DBA Reply Comments, Docket No. 82-538, filed with the FCC Mar. 8, 1983). Under S.880, however, persons living in South Pittsburgh would lose whatever WSM nighttime skywave service they now have, and those living in the vicinity of South Pittsburgh would lose an alternative choice nighttime station.

S. 880 and similar proposals would result in intolerable interference to the detriment of millions of Americans who depend on Clear Channel wide-area coverage.

Even though S. 880, as it currently is written, ostensibly would protect the existing groundwave signals of Clear Channel stations, other proposals have been advanced which would dismantle the FCC's decision in Docket No. 82-538 and allow additional encroachment on Clear Channel groundwaves. Such proposals, or similar legislative efforts, are cause for even greater concern. Even under the FCC's current rules, interference to Class I stations by co-channel daytime-only Class II stations often would extend within the 0.5 mV/m groundwave contour of some Class I stations during sunrise and pre-sunrise/post-sunset hours. In Docket No. 82-538, CCBS submitted engineering studies which showed, for example, that radio station WSM in Nashville, Tennessee, would suffer interference as close as its 0.53 mV/m groundwave contour,[11] which represents substantial encroachment since Class I daytime signals are protected to their 0.1 mV/m groundwave contours. Because skywave propagation patterns close to sunset are similar to patterns occurring around sunrise, interference to the groundwave signals of the Class I stations can be expected after sunset and during the critical hours before sunset as well.

A further extension of the operating hours and the transmitting power of daytime stations beyond that specified by the FCC in Docket No. 82-538 would intensify to an even greater extent the existing interference to the primary (groundwave) service areas of the Clear Channel stations, as well as to their secondary (skywave) service areas. In many cases, Clear Channel groundwave service provides the only groundwave service available to a particular area.[12] Thus, any extension of hours and increase in power could actually increase the "white" areas by causing interference to the primary service of Class I and other unlimited-time stations. Clearly, the public interest justifications for preserving Clear Channel skywave service to the nation's unserved and underserved areas are equally—if not more—applicable to the maintenance of interference-free groundwave service to such areas located close to the Clear Channel stations, where residents rely on the news, farm reports, and other programming ~~provided by~~ such stations during the periods affected by the proposed extensions of operating power and hours for daytimers.

The extent of interference to the groundwave and skywave coverage of Clear Channel stations and the detrimental impact on wide-area listeners that would be caused by S. 880 and by other proposals to extend daytimers' hours and power can be seen in the following example. In Docket No. 82-538, it was asserted by the Daytime Broadcasters Association that because of mutual interference between Class I-B stations during the transition (post-sunset) period the overall interference "would be worsened only very slightly, if at all, were the 529 daytime-only stations permitted to operate with powers of 250 watts until 6:30 p.m. local time and with the power specified by the FCC following its September 9 Order thereafter." [13] This assertion, however, runs counter to the facts. To rebut this assertion and to explain more fully the implications of DBA's proposal (and in so doing the implications of S. 880 as well), a somewhat more technical discussion is necessary.

DBA refers to the situation on 1170 KHz with Class I-B stations at WWVA, Wheeling, West Virginia, and KVCO, Tusla, Oklahoma.[14] As explained by CCBS in

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[11] See Comments of Clear Channel Broadcasting Service, Docket No. 82-538, filed with the FCC Jan. 14, 1983. (See also Co-Channel Groundwave Interference, Exhibit 9, attached hereto.)

[12] See White Area Map, Exhibit 4, attached hereto. As the map clearly indicates, most of the nation's gray areas—depicted in red on a color map and in gray on a black and white map—receive their sole nighttime groundwave service from a Clear Channel station. For example, the large red area around Atlanta, Georgia, receives its only AM service from radio station WSB, the area around Salt Lake City, Utah, from KSL; the area around Boston, Massachusetts, from WBZ; the area around New Orleans, Louisiana, from WWL; the area around Charlotte, North Carolina, from WBT; the area around Nashville, Tennessee, and Cincinnati, Ohio, from WSM and WLW, etc.

[13] See Supplemental Comments of the Daytime Broadcasters Association on its Petition for Partial Reconsideration, BC Docket No. 82-538, filed with the FCC Jan. 20, 1984.

[14] Id.

its Opposition to DBA's Supplemental Comments,[15] if daytime Class II station KJAS, Jackson, Missouri, were to operate until 6:30 p.m. local time during December and/or January with a power of 250 watts, it would cause substantial interference to both the groundwave and the skywave service of WWVA and KVOO. WWVA would lose 101,526 square miles or 35.8% of its interference-free nighttime skywave service area while losing 3,815 square miles of 30.5% of its nighttime groundwave service area. Similarly, operating as proposed by DBA, KJAS would cause interference to 244,540 square miles or 29.2% of KVOO's normally protected nighttime skywave area and 19,793 square miles (40.9%) of KVOO's nighttime interference-free groundwave service area. Nowhere has DBA, or any other party, supported the contention that such massive interference would be justified.

The above operating proposal also fails to consider the adverse impact that daytime stations operating post-sunset with 250 watts would have on each other. For example, Class II daytime station WLBH, Mattoon, Illinois, would increase the post-sunset limit of KJAS from 2.58 mV/m to 6.39 mV/m. Thus, the effect of other daytime stations on daytime stations operating post-sunset also should be considered along with the other detrimental effects that would result from the passage of S. 880. In other words, the daytime stations would cause interference to each other and thereby reduce further their respective post-sunset (and pre-sunrise) coverage areas.

In analyzing the KVOO and WWVA situation on 1170 KHz, the proposal also fails to recognize that during much of the time in which daytime stations on 1170 KHz would be operating post-sunset, KVOO and WWVA afford protection to each other through the use of directional antennas. Thus, while KVOO and WWVA may cause some mutual interference to each other for a brief period each evening, during most of the period in which daytimers in the Central Time Zone would be operating post-sunset, KVOO and WWVA would be operating so as to avoid such interference.

Such an increase in interference to the wide-area skywave and groundwave signals of Clear Channel stations would not be balanced by a significant corresponding increase in service by the pertinent daytime stations. Indeed, these daytime stations would even cause interference to each other. Because daytime stations increasingly would be operating under nighttime conditions under S. 880 and similar proposals to extend daytimer hours and power, the stations would have to operate at very low power, such as specified by the FCC pursuant to Docket No. 82-538, in order to afford the required level of protection—however inadequate—to the Clear Channel stations. If operating power levels are not maintained at the limits prescribed by the FCC in order to protect the Clear Channel stations, the overall proliferation of interfering signals being broadcast by daytime stations under essentially nighttime conditions would limit their services to very small areas. Thus, because the daytimers would not be able to serve areas of significant size, no substantial public benefit would accrue from the expansion of time or power during pre-sunrise and post-sunset operations by daytime-only stations.

CONCLUSION

In sum, S. 880 cannot enhance the public interest. Indeed, passage of S. 880 would prove very detrimental to the millions of residents and travelers who live in and travel through the rural and remote areas of this country. Technical realities, as well as equitable and public interest considerations, militate against the passage of S. 880. The FCC has thoroughly and objectively considered and analyzed all of the various aspects surrounding extended hours of operation by daytime-only AM stations. The Commission has labored hard to reach a reasoned and balanced decision that provides extended hours of operation to a vast majority of daytime stations while at the same time protecting the skywave coverage of Class I Clear Channel stations in order that they might continue serving the millions of rural American residents and travelers who reside in and travel through the "white" areas of this country. Moreover, the proposed allocation of almost 650 new FM channels by the FCC will provide even more nighttime radio service.

Failure to reject S. 880 would adversely impact the public interest. Because Congress cannot repeal the laws of physics, S. 880 would benefit only a very few, who now receive or can receive full-time local services, at the expense of millions who do not and cannot receive local nighttime groundwave service. While S. 880 might enhance the pecuniary interest of daytime-only stations, it sould prove extremely det-

[15] See Opposition of CCBS to Supplemental Comments of the Daytime Broadcasters Association on its Petition for Partial Reconsideration, BC Docket No. 82-538, filed with the FCC Feb. 29, 1984. (See also Extended Hours Interference, Exhibit 10, attached hereto.)

rimental to the millions of Americans who depend on service from full-time stations, especially those who depend on Clear Channel skywave coverage for their only or only choice of nighttime AM radio programming. Preservation of the public interest requires that S. 880 be rejected

Accordingly, CCBS respectfully urges the Senate to reject S. 880.

Senator PRESSLER. Thank you. I have some questions for you, but first we will hear from Wallace Johnson.

Mr. JOHNSON. Senator Pressler, I want to thank you for this opportunity to present this statement.

My name is Wallace E. Johnson. I am president and executive director of the Association for Broadcast Engineering Standards, on whose behalf I present this statement. I am also a member and president of the firm of Moffet, Larson, and Johnson, consulting telecommunications engineers. Prior to joining these organizations, I was with the FCC for 37 years, serving in a wide range of positions within the then Broadcast Bureau. My last position was chief of that bureau, a position which I held for 8 years.

There are two basic issues which S. 880 presents for decision by Congress. They are what levels of interference are acceptable to the American people, and who should decide that question, Congress or the FCC. The seriousness of interference in the AM band has been dramatically illustrated by the Radio Broadcasting to Cuba Act, where Congress took the position that interference is a serious matter, and that American broadcasters should be compensated for the facilities required to recoup the losses in service which may result from interference by Cuban AM stations.

A total of $5 million was authorized for such compensation. If implemented, S. 880 will also result in interference to existing licensed skywave service and class 1A stations during the extended hours which will be authorized for daytime stations. Whether it is caused by foreign stations or by domestic stations, interference is interference.

Where clear channel skywave service is interfered with, losses in service are experienced by residents in rural areas and by the traveling public. Where listeners to regional stations are the victims, the loss affects existing service which is every bit as local as a new presunrise and postsunset service sought by daytimers.

Through the years, the Commission has considered several extended hours proposals. They included 5 a.m. to local sunrise and local sunset to 7 p.m., 6 a.m. to 6 p.m., and the present rules, which permit operation from 6 a.m. to local sunrise, and under conditions which protect skywave service for stations on clear channels.

The FCC has just completed a 2-year study of the daytimer question. The September 1983, decision gives the vast majority of daytimers valuable operating privileges in the postsunset period. The action culminates a long history by the FCC of involvement with daytimers' demands to be allowed to operate outside normal daytime hours. If there were an easy answer to that question, it would have been found long ago. There is no easy answer.

The daytimers have many needs. They have a number of needs and potential for service which S. 880 does not address. Since the laws of physics decree that daytime only stations cannot operate at night in an uncontrolled fashion without causing unacceptably high levels of interference to license full-time services and also to

one another, the only real and permanent solution to the daytimer problem is to make as many daytime only stations as possible full-time stations. That is, you create the conditions whereby daytime only stations can obtain authority to employ a combination of transmitting frequency power antenna configuration which will provide adequate protection to the signals of other full-time stations on the same frequency.

The solution is not as utopian as it may sound. Since 1934, there have been a number of opportunities for daytime only stations to become full-time facilities in accordance with rules against interference. The latest was in 1982, when the FCC expanded the number of nighttime operations permissible on a clear channel frequency. At the present time, the United States has just concluded an agreement with Canada, and is within a few months of reaching similar agreements with Mexico and the Bahamas to permit new nighttime operations on Canadian, Mexican, and Bahamian clear channels.

Whenever an opportunity for new nighttime AM operation opens up, there are some daytime stations which succeed in obtaining full-time operating rights, but the number is always too few to have a major impact on the number of daytime only stations. The principal reasons why daytimers cannot take advantage of such opportunities are found in other FCC policies which tend to discourage daytimers from even applying for full-time operating authority.

For example, where there are two or more applicants for the same frequency in the same area, section 307(b) of the act requires the Commission to prefer the applicant which proposes a wholly new daytime and nighttime service over a daytimer seeking only a new nighttime service. Similarly, where one application proposes a first local service to a community, it will generally be preferred over a daytimer's nighttime proposal under section 307(b).

Where applications specify similar operations in the same community, the Commission's comparative criteria usually require the applicant without an existing station in the market to be preferred over the daytimer, who after all already has a daytime voice in the community.

The answer to our dilemma is to recognize the public interest in permitting daytime only stations to make the most efficient use of their frequencies by becoming full-time facilities where possible. This may be done by adding to S. 880 a provision that applications proposing to add a new nighttime operation to an existing daytime only station shall be entitled to a preference over other classes of applicants under the efficiency standard of section 307(b) by providing that such proposals shall not suffer any demerit under the Commission's comparative criteria.

These two changes would do much to help daytimers to upgrade their facilities in a way wholly consistent with the concept of high quality interference-free service. The conversion of daytime only stations to full-time stations is not by any means a panancea. Many daytime stations simply cannot operate on their present frequencies at night under any parameters without causing objectionable interference to licensed full-time station reception.

Many licensees of daytime only stations have remedied this problem by obtaining full-time FM station authorizations in the same

community as served by their daytime only outlet. In fact, more than one-half of all daytime only stations are owned in common with full-time FM stations licensed in the same community, and I believe that many of the daytimers who have testified before you today also have full-time FM stations.

Today the Commission stands on the brink of a major decision which will increase the number of FM stations, particularly in the smaller markets where many daytime only AM stations are found. Following its decision in June 1983, in docket No. 8090, the Commission has initiated rulemaking in which it proposes to add 684 new FM assignments to its table of FM channel assignments. It is not possible to predict at this time exactly how many new FM channels will be assigned as a result of action in that docket, but 684 is thought to be a minimum number, and as many as 1,000 new FM assignments may be made in that proceeding.

ABES believes that 880 presents an opportunity for Congress to give the FCC guidance on how new AM and FM assignments may be made so as to satisfy the needs of daytime only licensees. Proposed section 309(k) is intended to respond to the discrimination found in the present Commission policies, but that proposed subsection we believe requires some editorial changes to assure it achieves its intended goal.

Congress should allow the FCC to decide the daytime issue on its merits. It should also tell the Commission that it wants the issue settled in a technical competent way, and to do everything possible to permit additional operating hours in a manner which will not destroy existing service which is also valuable to the public.

Thank you.

[The statement follows:]

STATEMENT OF WALLACE E. JOHNSON, ON BEHALF OF ASSOCIATION FOR BROADCAST ENGINEERING STANDARDS, INC.

My name is Wallace E. Johnson. I am President and Executive Director of the Association for Broadcast Engineering Standards, Inc. on whose behalf I present this Statement. I am also a member and President of the firm of Moffet, Larson & Johnson, P.C., Consulting Telecommunications Engineers. Prior to joining these organizations I was with the Federal Communications Commission for 37 years, serving a wide range of positions within the then Broadcast Bureau. My last position was Chief of that Bureau, a position I held for eight years.

INTRODUCTION

Association for Broadcast Engineering Standards, Inc. (ABES), is a nonprofit membership corporation organized under the laws of the state of Delaware and located in Washington, D.C. Its membership is open to licensees of Standard Broadcast (AM) stations who share the goals of the Association. Those goals are stated in the corporate charter as follows:

"To assist the appropriate government authorities and the industry in assuring optimum radio service for the people of the United States, and to follow the intent of Congress in the Communications Act of 1934, as amended."

ABES' membership includes licensees of every class of AM broadcast station, from Class I-A Clear Channel facilities to Class IV Local stations, including daytime-only stations. Many of ABES' member stations are able to operate during nighttime hours because their owners have made substantial investments, both initially in construction and over the years in operation and maintenance costs, in directional antennas which are designed to minimize interference during nighttime hours to other stations, both domestic and foreign. Lists of ABES' current officers, directors, and Technical Committee members are attached hereto.

While ABES is generally regarded as a spokesman for full-time stations, we prefer to view ourselves as spokesmen for sound engineering practice, within the limita-

tions imposed by the special conditions which affect AM signal propagation. In contrast to FM and TV service, AM stations transmit a groundwave signal with somewhat limited coverage, and a skywave signal which, at night, interacts with the ionosphere in a way which makes it possible for radio listeners to receive AM signals many hundreds of miles removed from the transmitter locations. This night time skywave phenomenon, which is a unique characteristic of the AM service, also causes widespread destructive interferences among stations operating on the same frequencies at night at great distances from the originating station.

The physical laws of nature which determine AM signal transmission along the ground and produce the interfering skywave transmission through the inosphere for distances of hundreds of miles must be taken into account by any authority which seeks to develop plans and standards to govern the use of AM frequencies in an effective manner.

ABES recognizes that the ultimate authority to regulate the uses to which the various portions of the electromagnetic spectrum rests with the Congress, and that the Federal Communications Commission or any successor agency can exercise only such power as is lawfully delegated to it by the Congress. Thus the extent to which that spectrum is being used to serve the interest, convenience and necessity of the American people is a matter of direct and immediate concern to this Subcommittee. Over the years of my affiliation with the FCC, I have had the privilege of appearing before this Subcommittee on a number of occasions either to testify directly or to render assistance to the Chairman and members of the Commission. Therefore, I know this Subcommittee's concern that the electromagnetic spectrum be used to the optimum benefit of all the people of the United States. I am confident that the actions which the Subcommittee eventually takes with regard to S. 880 will similarly serve the public interest.

SUMMARY

While S. 880, as reported out by the Committee on Conmmerce, Science and Transportation on June 27, 1983, contains many laudatory provisions, ABES must oppose it in its present form. It does so on several gounds.

S. 880 mandates operation by daytime-only AM stations during the presunrise and postsunset periods without regard to the destructive interference which such operations will cause to reception by the public of skywave transmission services. The relative need of the public for such skywave reception services clearly outweighs the limited need for extended hours operations by daytime-only stations. In contrast, the proposal would appear to give protection to the groundwave signals of all fulltime stations. ABES believes that the concern properly shown for groundwave service should also be shown for skywave service.

S. 880 ignores a number of measures which could be taken to improve the coverage of daytime-only stations without offsetting losses in existing service to the public.

HISTORICAL BACKGROUND

"From its very beginning," as Henry J. Friendly observed in 1968, "federal regulation of Standard AM radio service has been complicated by the fact that radio waves do not act in the same way when the sun is up as when down." This basic fact of physics was reflected in the first attempt to allocate the AM broadcast spectrum and has persisted throughout the steady growth and development of AM radio. General order No. 40 of the Federal Radio Commission, adopted August 30, 1928, established the three classes of broadcast stations—Clear Channel, Regional, and Local—which remain the core of the Commission's AM allocation scheme and subdivided the some 677 AM stations then existing into fulltime, daytime, and limited time stations. Daytime was defined as the period from 6:00 a.m. sunrise until local sunset.

The tripartite classification of stations, subdivided by limitations imposed on hours of operation, was adopted by the Federal Communications Commission when it was formed under the Communications Act of 1934. This scheme remained in effect, essentially unchanged, until 1939 when a new class of station, the fulltime Class II, was added. The definition of daytime operations remained unchanged, although the number of AM stations in operation had continued to increase. By June 30, 1939, there were 534 unlimited time, 25 limited time, and 98 daytime stations.

With the growing number of AM stations, the vast majority of which were unlimited time facilities, use of a standardized 6:00 a.m. sign-on time came under increasing attack. Because the ionospheric conditions which affected the propagation of radio waves did not change abruptly at a specific time, it became evident that the

administrative definition of sunrise as 6:00 a.m. had serious deficiencies. During the summer months, when sunrise, in most regions of the country, occurred before 6:00 a.m., daytime stations were unnecessarily prohibited from going on the air. Valuable daylight hours were lost. During the winter months, by contrast, sunrise often did not occur until well after 6:00 a.m. and the standardized sign-on time resulted in severe interference to unlimited time stations. To remedy this situation, the Commission in April, 1940 changed the sign-on time of daytime stations from 6:00 a.m. to the hour of local sunrise whenever it occurred. In addition, daytime stations were permitted to begin broadcasting, and fulltime stations to begin using daytime power, at 4:00 a.m., subject to termination upon complaint of objectionable interference by protected stations. Local sunset remained the time established for sign-off.

In FCC Docket Nos. 12274 and 12729, initiated in 1958 and 1959 respectively, the Commission considered and rejected two different proposals to return to a standardized broadcast day. Docket No. 12274 examined comments on a proposal, advanced by the Daytime Broadcasters Association, Inc., ("DBA") to permit daytime stations to operate from 5:00 a.m. or local sunrise, whichever was earlier, until 7:00 p.m. or local sunset, whichever was later. The proposal was rejected on grounds that it would, by destroying skywave service, deprive "very considerable" areas of their only available AM reception service.

A more modest proposal was considered in FCC Docket No. 12729. It would have permitted daytime operation from 6:00 a.m. to 6:00 p.m. After reviewing extensive engineering studies and numerous comments, the Commission found that, while the proposal would provide an additional service to many radio listeners, it would also entirely deprive some 25,631,000 people of the only standard broadcast service then available to them. Based on those findings, the Commission concluded that adoption of the proposal would be "undesirable and unwarranted." S. 880, by permitting the destruction of skywave service would have the same effect as the proposal in Docket No. 12729.

Controversy over the proper hours of daytime operation did not, however, end. On December 6, 1961, a rulemaking proceeding in Docket No. 14419 was initiated to consider the interference to AM service, which resulted from the provisions in Commission rules which permitted presunrise operation for certain classes of station. By 1961, there was a total of more than 3,500 AM stations in operation, of which over 1,500 were daytime only stations. As a growing number of these daytime stations took advantage of early sign-on privileges, interference conflicts between daytime and fulltime stations sharply increased. In 1968, the Commission adopted rules intended to redefine the hours of daytime operation so as to strike what it then perceived to be the optimal balance between the competing classes of AM service. 6:00 a.m. was reconfirmed as the beginning of presunrise hours and a daytimer's ability to operate presunrise was made dependent upon prescribed eligibility criteria, rather than upon the sufferance of affected fulltimers.

The present regulations governing hours of presunrise operation by daytime-only stations are embodied in section 73.99 of the Commission's Rules and are essentially those adopted in Docket 14419 and upheld in *WHEN* v. *United States*, 396 F.2d 601(2d Cir. 1968). Although the presunrise rule has been altered in form by various amendments, it has been modified in substance only by Report and Order, 18 FCC 2d 705 (1969), which regularized the sign-on practices of certain Class II stations, and by Report and Order, 85 FCC 2d 709 (1981), which permitted certain Class II stations to begin presunrise operation at 6:00 a.m. local time, provided presunrise power was sufficiently reduced to protect co-channel Class I-B stations.

The presunrise operating rule adopted in 1968 has worked well. Despite the interference which is being caused to Regional Stations under earlier sign-on in the winter months. It must be noted in regard to the proposal in S. 880 to mandate higher power levels for daytime in the presunrise period that there is no public demand of which we are aware for any change whatever in the presunrise rules.

Nevertheless, spokesmen for daytime-only licensees have continued to demand changes in the FCC rules which would permit them to continue to operate after the hour of local sunset despite the well recognized fact that such operations cause destructive interference to licensed fulltime AM services by Clear Channel and Regional stations. In a effort to respond to such demands, the Commission in 1982 began rulemaking in BC Docket No. 82-538 looking toward permitting daytime-only stations to continue to operate for two hours after the hour of local sunset with power of up to 500 watts. As originally proposed, daytimers would have to protect the secondary service of Clear Channel stations, but would not have to reduce power to protect the local ground wave service of fulltime Regional stations.

By First Report and Order adopted in BC Docket No. 82-538 in September, 1983, the FCC has given the daytime broadcaster valuable new operating opportunities in

the postsunset period. Once the necessary agreements with Canada and Mexico become effective, most daytime-only stations will be able to sign-on at 6:00 a.m. local time year round and continue to operate until two hours after local sunset even as long as 11:00 p.m., local time, in the summer months. The power permitted during the periods of extended operation is up to 500 watts. Where 500 watts operations would cause destructive interfence to the reception of licensed fulltime stations, lesser power is authorized. The only daytime stations not enjoying these extended operating privileges are those located within or close to the secondary service areas of Clear Channel stations. Such daytimers are only a small fraction of the total number of daytime-only stations in this country.

EFFECTS OF THE NEW RULE

Some daytimer spokesmen claim to be disappointed with the results of the new postsunset operating rule adopted by the FCC in its First Report and Order in BC Docket No. 82-538. For example, the DBA has asked the FCC to reconsider that action. Nevertheless, DBA's own submission to the Commission shows that all but 98 of the 2,357 daytime-only stations studied have obtained some degree of postsunset operating authority where one was possible before the new rule was adopted. DBA claims tht almost half (47 percent) of all daytime-only stations are required to operate with less than 50 watts during the period of extended operation permitted under the rule. Since DBA fails to relate any specific power level to the issue of quality of service rendered during the extended operating period, DBA's criticism of the effects of the new rule is somewhat pointless. All that DBA does, in fact, is to compare the postsunset rule with the presunrise rule and claim that the latter is preferable to DBA. At Paragraph 30 of its First Report and Order, the Commission considered the comparability of the presunrise rule to the conditions pertaining to postsunset period and concluded that operation with 500 watts is not a "prerequisite to effective coverage" by daytime-only stations. The rule adopted is one which" . . . takes the serious interference potential into account."

Contrary to DBA's assessment, the statistics presented to the FCC by DBA, itself, clearly show that the new rule has resulted in a substantial amount of new service in postsunset period. Of the 2,357 daytime-only stations, 1,251 stations (53 percent) can now operate with power of 50 watts or more in the postsunset extended operating period. More than one station in four can operate with power in excess of 100 watts. When it is considered that daytime-only stations are not designed to operate after sunset without causing destructive interference to unlimited hours stations, and for that reason could not operate at all after sunset under the rules in effect for more than 50 years, the rule adopted by the First Report and Order has permitted a significant improvement in service to the public. ABES believes that the FCC has gone as far as can be justified in the public interest in accommodating the demands of daytime-only stations to operate under nighttime conditions with facilities designed exclusively for daytime operation. The FCC now has before it a petition for partial reconsideration filed by the Daytime Broadcasters Association, which seeks still greater presunrise and postsunset operating rights for daytimers. ABES has urged the Commission to affirm its September, 1983 decisions. However, until the Commission takes final action in BC Docket No. 82-538, ABES asks this Subcommittee to defer action on S. 880. Any need for legislation will be apparent only after the Commission takes such final action.

S. 880 CAN BE IMPROVED

Even if Congress were to decide that the issue of the hours of operation of daytime-only stations should be decided on some other basis than the scientific facts and the need to protect well-established reception services, S. 880, in its present form, is a poor vehicle for doing so. S. 880 is silent on a number of crucial issues. In other respects, it actually fails to achieve what its drafters clearly intended. In addition, it totally fails to address a number of possible actions which could be taken to improve the lot of daytime-only licensees without causing new interference to any fulltime station.

ABES' critique of S. 880 is as follows:

1. GROUNDWAVE SIGNAL

The effect of the use of the groundwave signal as the exclusive standard for protection to fulltime service would be to permit the destruction of the skywave service which Class I stations are licensed to provide. Given the extent to which the operation of daytime-only stations will be expanded under the terms of this Bill, the lim-

itation of protection to the groundwave signal effectively elmininates the skywave service. That is contrary to the FCC's decision in Docket No. 82-538 and will surely result in interference affecting many tens of millions of Americans, particularly those residing in rural areas and a great number of people who, at any time, are driving on our national highway system.

2. WHO GETS PROTECTED?

The proposed amendment to Section 307(b) provides protection only to the groundwave signals of "existing" AM stations. The use of the word "existing" will have the effect of precluding new fulltime stations by requiring them to protect what should be treated as secondary services. The net effect is to introduce an element of inefficient spectrum use into a statute whose cornerstone is efficient and equitable spectrum utilization. Extended hours for daytime-only stations makes sense only if it is on a secondary basis and does not preclude new fulltime station authorizations, including those of former daytime-only stations.

3. BACKFIRE EFFECTS

It is well known that, when daytime stations operate under sunset, they will interfere with one another, as well as with fulltime stations. If extended hours are to be part of a licensed service (*see* S. 880, Section 2(b)), then the interference by one daytime station to another will violate proposed Section 307(b). Under the terms of Section 2(a) of S. 880, no daytime-only station could operate with extended hours if it causes groundwave interference to a prior licensed extended hours operation. Since virtually every extended hours operation will cause interference to other such operations, the provision is self-defeating. Initially, this problem might be avoided were the Commission to grant all extended hours "licenses" at once, but the intent of Congress in that regard should be made clear. In any event, future authorized daytime-only stations will *not* be eligible for extended hours under this language, since they will have to protect the prior licensed hours operations of earlier constructed daytime-only stations, a clearly discriminatory result.

4. OTHER PROBLEMS

Proposed Section 309(k), which is also set forth in Section 2(a) of S. 880, is intended to eliminate the present disadvantage at which existing stations find themselves under Section 307(b) when they seek to improve facilities. That is a desirable goal which ABES fully supports. However, defects of draftsmanship are apparent in the proposed language.

When an existing station improves its licensed facilities, the question of "relinquishing" existing facilities never arises. Unless there is a change in frequency, there can be no relinquishment, since the frequency in question will remain occupied. Where there is a change in frequency, the relinquishment occurs automatically, since a station cannot operate on two frequencies at the same time. Therefore, the final prepositional clause of proposed Section 309(k) serves no purpose.

Section 307(b) is not the only problem which existing daytime licensees face when they seek a nighttime operating authorization for their communities of license. The most practical way of obtaining an unlimited hours operation is by applying for an FM channel in the same community in which the daytime-only AM station is located. Approximately one-half of all daytime-only AM stations now have commonly-owned FM stations in the same town which can continue to operate after the AM station goes off the air at sunset. On the other hand, as FM stations have become financially successful, the damnd for FM facilities has become increasingly greater. Where there is competition for FM channels, the Commission's policies favoring diversity of ownership of media have placed the licensees of daytime stations in the same communities to which the proposed FM stations are to be assigned at a distinct disadvantage. The comparative disadvantage in which daytime-only licensees find themselves often discourages them from even applying for FM facilities.

To cure this problem, S. 880 should contain a new proposed Section 309(k) which will make it clear that the FCC should not continue to discourage daytime-only AM licensees from seeking co-located FM facilities through the application of multiple ownership policies.

Section 2(b) of S. 880 proposes to amend Section 309 of the Act to add a new subsection (d) which would provide that applications to alter the hours of standard broadcast stations would be considered to be applications for minor changes under the Commission's procedural rules. The purpose of this proposal is obviously to expedite the processing of applications to convert daytime-only stations to fulltime li-

censed facilities. While ABES fully supports expedition of the processing of such applications, the proposed amendment would have negative substantive effects which far outweigh its procedural benefits.

Under the Commission's procedural rules, applications for new stations and for major changes in existing stations are subject to a member of notice requirements which are intended to permit the public, including licensees of existing stations which may be adversely affected by the grant of such proposals, to become acquanted with them and to raise any objections or other matters in a timely way. Applications for minor changes do not present the same potential for adverse effects on others and, consequently, are relieved of much of the burden of notice and the processing delay attendant to it.

The basic problem with Section 2(b) of S. 880 is that an application by a daytime-only station for a new nighttime operation is, in effect, an application for a new station in the period between sunset and sunrise. The applicant must show that, by reduced power or by use of a directional antenna or both, its proposed nighttime operation will not cause objectionable interference to any existing station. In order to permit existing station licensees to become aware of the existence of the proposal and to study it, the procedures applicable to new stations and major changes must be followed. Otherwise, substantive objections to the grant of such applications may not be received by the Commission until after authorizations are actually granted. The result would be severe administrative disruption and chaos in the processing of applications.

If the Commission wishes to expedite the processing of applications to convert daytime-only AM stations to fulltime stations—as ABES has urged it to do—it must do so within the framework of its basic processing rules. Expedition within that framework is possible with full protection for the rights of existing licensees and others.

NEEDS OF DAYTIMERS

The licensees of daytime-only stations have a number of needs and potential for service which S. 880 does not address at all. Since the laws of physics decree that daytime-only stations cannot operate at night in an uncontrolled fashion, without causing unacceptably high levels of interference to licensed fulltime services and to one another, the only real and permanent solution to the daytimer problem is to make as many daytime-only stations as possible fulltime stations. That is, to create the conditions whereby daytime-only stations can obtain authority to employ a combination of transmitting frequency, power and antenna configuration which will provide adequate protection to the signals of other fulltime stations on the same frequency.

This solution is not as utopian as it may sound. Since 1934, there have been a number of opportunities for daytime-only stations to become fulltime facilities in accordance with the rules against interference. For example, in the late 1950's, after the North American Regional Broadcasting Agreement ("NARBA") became effective, several new Class III Regional frequencies became available for new fulltime operations. In the early 1960's after the Commission's initial Clear Channel breakdown, opportunities arose for new fulltime stations principally in the plains and mountain states. Again, in 1982, the FCC expanded the number of nighttime operations which will be permissible on the Clear Channel frequencies. At the present time, the United States has just concluded an agreement with Canada and is within a few months of reaching similar agreements with Mexico and the Bahamas to permit new nighttime operations on Canadian, Mexican and Bahamian Clear Channels.

Whenever an opportunity for new nighttime AM operations opens up there are some daytime-only stations which succeed in obtaining fulltime operating rights, but the number is always too few to have a major impact on the number of daytime-only stations. The principal reasons why daytimers cannot take advantage of such opportunities are found in other FCC policies which tend to discourage daytimers from even applying for fulltime operating authorizations. For example, where there are two or more applicants for the same frequency in the same area, Section 307(b) of the Act requires the Commission to prefer the applicant which proposes a wholly new daytime and nighttime service over a daytimer seeking only a new nighttime service. Similarly, where one application proposes a first local service to a community, it will generally be preferred over a daytimer's nighttime proposal under Section 307(b). Where applications specify similar operations in the same community, the Commission's comparative criteria usually require the applicant without an existing

station in the market to be preferred over the daytimer, who, after all, already has a daytime "voice" in the community.

The standards of fair, efficient and equitable distribution of facilities among the States and community have played a constructive role in fastening competition and diversity in the broadcast industry. Similarly, the Commission's comparative criteria, which place a premium on multiplying the number of independent "voices" in every community, have also been beneficial to the public. Nevertheless, both policies have presented barriers to daytimers in becoming full licensed unlimited hours facilities.

The answer to this dilemma is not to pretend that daytime stations operating during nighttime hours are not substandard fulltime facilities. Rather, it is to recognize the public interest in permitting daytime-only stations to make the most efficient use of their frequencies by becoming fulltime facilities where possible. This may be done by adding to S. 880 a provision that applications proposing to add a new nighttime operation to an existing daytime-only station shall be entitled to a preference over other classes of applicants under the efficiency standard of Section 307(b) and by providing that such proposals shall not suffer any demerit under the Commission's comparative criteria. These two changes would do much to help daytimers to upgrade their facilities in a way wholly consistent with the concept of high quality interference-free service.

The conversion of daytime-only stations to fulltime stations is not, by any means, a panacea. Many daytime-only stations simply cannot operate on their present frequencies at night under any parameters without causing objectionable interference to licensed fulltime station reception. Many licensees of daytime-only stations have remedied this problem by obtaining fulltime FM station authorizations in the same communities as served by their daytime-only outlets. In fact, more than one-half of all daytime-only stations are owned in common with fulltime FM stations licensed to the same community.

When the licensee of a daytime-only station seeks to obtain a fulltime FM station to serve his community, he faces the same kinds of problems as he faces when he seeks fulltime AM facilities. The Commission's Section 307(b) policies and its diversity of ownership policies found in the comparative hearing criteria also discriminates against the daytime-only AM station licensee who tries to overcome his disadvantage by applying for FM facilities. In recent years, the impact of that discrimination has been particularly telling as demand for FM stations has increased.

Today, the Commission stands on the brink of a major decision which will increase the number of FM stations, particularly in the smaller markets where many daytime-only AM stations are found. Following its decision in June 1983 in MM Docket No. 80-90, the Commission has initiated rulemaking in MM Docket No. 84-231 in which it proposes to add 684 new FM assignments to its Table of FM Channel Assignments. It is not possible to predict at this time exactly how many new FM channels will be assigned as a result of MM Docket No. 84-231, but 684 new assignments is thought to be a minimum number and as may as 1,000 new FM assignments may be made in that proceeding.

ABES believes that S. 880 presents an opportunity for Congress to give the FCC guidance on how new AM and FM assignments may be made so as to satisfy the needs of daytime-only licensees. As suggested above, proposed Section 309(k) is intended to respond to the discrimination found in the present Commission policies, but that proposed subsection requires editorial changes to assure it achieves its intended goals.

CONCLUSION

In conclusion, I wish again to thank the Subcommittee for permitting me to submit this statement. As I have sought to suggest in this statement, the subject of extended hours for daytime-only stations has been around as long as there have been daytimers, and that has been from the earliest days of broadcast regulation. Many people with great wisdom, experience and technical knowledge have sought a solution to this issue which would please all sides and serve the public interest. Their efforts over 50 years prove one thing: there is no easy answer. At best, there must be an effort to convert daytimers to regular licensed fulltime stations and, where that is not possible, to reach a workable compromise which does not fully degrade the quality of service received by the listening public. Quality of service to the public is the touchstone of the Communications Act and the goal sought by ABES, as it is the goal of this Subcommittee. The compromise which the Commission reached in BC Docket 83-538 in September 1983, was based on sound technical criteria which do not destroy existing services. The FCC gave the daytimers as much

as is consistent with the concept of quality service to the public. Congress should congratulate the Commission on its September 1983 decision, which is once more before it on reconsideration. Congress should urge the Commission to maintain its stand in favor of quality AM broadcast service. If the Commission does so, there will be no need for Congress to adopt S. 880. Thank you.

Senator PRESSLER. Thank you very much. I understand that John Bartlett, who is counsel to the Clear Channel Broadcast Service, is sitting with panel three but does not have a statement. We are glad to have you here.

I have some questions for Tom. Are you aware that this bill, S. 880, deals only with the transitional period? Your testimony seems to discuss nighttime service rather than 2 hours presunrise and 2 hours postsunset.

Mr. GLADE. Yes, sir. I am aware of that fact, realizing that even those hours have the dynamics of summer and winter, and of course the impact of daylight savings. For example, in the summertime, in a situation like Utah, 2 hours before sunset—I mean, sunrise in the East could be 3 o'clock, 4 o'clock Salt Lake time, a.m., and of course postsunset then in the summertime would be—the interference could potentially be received from the West would be 11 o'clock, 10:30, 11 o'clock at night, so essentially we are stating that during the largest share of hours in a 24-hour day, there could be as few as 4 hours in which there would not be the potential of objectionable interference.

Senator PRESSLER. I understand that you have presented letters from listeners. Did you notify your listeners that the FCC was considering changes? I have an announcement that apparently was run—"KSL skyway announcement: Attention KSL listeners located outside a 125-mile radius of Salt Lake City. Congressmen are proposing that KSL radio and other clear channel stations' nighttime coverage be limited. This could affect our present coverage of those outlying areas. If this proposal is enacted, those of you listening beyond 125 miles' radius from Salt Lake City may not be able to hear KSL's evening and nighttime programming. We invite your comments. Drop a note to KSL radio," and so forth.

Mr. GLADE. Yes, sir, and that announcement, in fact, as you are aware, we see the use of the skywave signal and the nighittime coverage to be very, very important, and a critical issue that needs to be discussed. As you are also or you might not be aware, we also invited Mr. Wychor and a daytime representative from that organization to also provide on a program their viewpoint so that it could be fairly and fully discussed, because it is a critical issue. Those announcements were run during the summertime period starting at 6 o'clock at night or 7 o'clock at night and ending at 5 o'clock in the morning, and so it would run during those time periods where essentially we anticipate interference. All but 4 nightime hours would not be impacted by the passage of S. 880.

Senator PRESSLER. But this announcement seems to indicate that night programing would be harmed. S. 880 only deals with the transitional periods 2 hours presunrise and 2 hours postsunset, not the whole nighttime.

Mr. GLADE. But at the same time, again in the summertime and again when this announcement was run the bulk of the time it was run and the feedback that we got from the letters was with refer-

ence to programming that would definitely be impacted, the agribusiness reporting in the early morning time period, the programs we have, the news and information programs, and the service we provide in the other time periods.

Also, as you might notice by the letters themselves, they represented the usage of the station quite effectively by the outlying areas, and it was long-term listening, not just those 2 hours, but it included those 2 hours before and after, the ones that would be most impacted or would be impacted by this legislation.

Senator PRESSLER. Now, in your testimony you said that S. 880 would significantly impair, if not destroy, the skywave service provided by clear channel stations. How would that happen? S. 880 expands the daytimers' operating hours only during the 2-hour transition period when skywave service is most unreliable.

Mr. GLADE. I would like to defer that to our engineer who could best explain that.

Mr. KASSENS. There seems to be a misconception, Senator, that there is no skywave service during this 2-hour period, 2 hours after sunset to 2 hours before sunrise. There is substantial skywave service. In fact as early as 1953 the Commission had a proceeding similar to this where it offered protection to skywave service during the daytime hours. This is between sunrise in the morning and sunset at night. So that there is—clear channel stations during this 2-hour period do provide substantial skywave service. It is not at the same level that occurs at 2 hours after sunset or even 3 or 4 hours after sunset.

Senator PRESSLER. I might ask Dr. Jackson if he would like to respond to that.

Mr. JACKSON. The answer is, some days you get some skywave before sundown, but an awful lot of days you don't, and there is a little service, yes, but it is a very weak and poor service. I am trying to find a quote here in the Commission's order where they speak to the fact that the skywave service is not established at sunset and builds up gradually during that period, and because of selfinterference between the skywave and the groundwave is not really useful until an hour or an hour and a half on the average after sunset. I will find the text in a minute.

Mr. KASSENS. The Commission order does not say that, sir. What it says is that it does not reach its full value at sunset, but reaches its full value 2 hours after sunset.

Senator PRESSLER. We will dig into that more and we will have some questions for the record back and forth. Let me ask another question here, unless you want to proceed.

Mr. GLADE. The only other observation I have very honestly, as we, we being a radio station with a 50,000 watt transmitter broadcasting in daytime, we do not consider the .1 millivolt area to be at the end of our daytime coverage area, and we know that—we realize that our daytime broadcast service and the response we get from our listeners are well up into Idaho and well over into Colorado and Wyoming and well into Nevada during the daytime time periods.

[The following information was subsequently received for the record:]

In order to illustrate the coverage and even concern for the protection of the coverage areas of clear channel stations, the following are a few examples of KSL's service to those residents in our rural "White areas":

JUNE 5, 1976—TETON DAM BREAK

When the Teton Dam broke on Saturday morning, it caught southeastern Idaho by surprise. The torrent of water destroyed communications and left residents within the flood area with few resources to determine the extent of damage or be advised of emergency actions being directed by Idaho officials. KSL Radio dispatched reporters to the scene by chartered aircraft, to provide listeners in the "white" area of service with first-hand information and instructions in dealing with the disaster. (Please note that the closest city to the dam was Rexburg, Idaho, located over 160 air miles from Salt Lake City.)

DECEMBER 1980—MASSIVE TELEPHONE OUTAGE SWEEPS UTAH AND IDAHO

The computer failure tripped circuits and snarled phone lines through much of the Mountain Bell Telephone network in Utah and Southern Idaho. KSL Radio immediately established radio communication links with reporters at the utility headquarters and at emergency service centers . . . . relaying information about the nature and cause of the problem. The station relayed instructions for residents in case emergency communications were needed, and provided a constant flow of information until the problem was cleared.

FEBRUARY 1981—MASSIVE POWER FAILURE

A trash fire near the Utah State Prison caused an ionized fireball to erupt through some high voltage power lines. The electrical short circuit tripped breakers through much of the Utah Power & Light system, causing a blackout that affected most of the State of Utah and areas of surrounding states. Emergency facilities kept KSL Radio on the air through the emergency, with information to residents of the affected region.

1983 FLOOD COVERAGE

KSL provided emergency information to flood victims throughout the State of Utah (well past the .1 millivolt prescribed protected area). KSL was involved in providing new and emergency information to the residents in the "once" rural area of Thistle (now Lake Thistle), and in and around Deseret when the D.N.A.D Dam broke, flooding the areas in its path.

These are only a few examples. Not mentioned was the coverage and emergency support of an earthquake in Challis, Idaho in 1983 (220 miles from Salt Lake; information provided to concerned families of fire victims of the MGM Grand Hotel in Las Vegas in 1981.

In every case, if KSL had not had its clear channel protection, it could not have provided the critically needed service to residents in the underserved rural areas. Please note that in every case mentioned, service began during the daytime period, including the four hours which would be impacted by S. 880.

Senator PRESSLER. You have heard the daytimers testify that they have been operating presunrise without complaints of interference. They say that means they also can operate postsunset without interference. How would you respond to that?

Mr. GLADE. You mean without a complaint?

Senator PRESSLER. Yes; without complaints of interference.

Mr. GLADE. Well, let me make a comment from my vantage point and then invite our counsel or, of course, our engineers to respond, but to be very frank with you, many times as decisions are made we have to resolve to accept and move with them, and if there is no more recourse, the expense of going further once there is erosion into the skywaves or your coverage area is not affordable based on the reality of business and its cost.

In addition, we have found that radio listeners don't complain about what they can't hear. They just find other alternatives. An

example might be in South Dakota. If a commuter, crossing the State in midevening (6 to 9 p.m.), becomes frustrated by hearing a local daytime station for 10 to 15 miles, then having to retune to find another signal, may elect to listen to audiotapes or no radio at all.

Mr. JOHNSON. Senator, if I could address that. I was at the Commission at the time that that particular decision was made. I think that Mr. McKinney this morning also made reference to the reasons behind this. At the time, the Commission had a presunrise and post-sunset proposal, 6 a.m. to 6 p.m., and they decided that the need for the early morning service was much more than the need for the evening service, taking into account the emergency type messages, school closings, weather conditions, and so forth. There is a lot of information that came into the Commission indicating that people who had been sleeping during the night, turned on their radio in the morning to see what had happened as far as schools, road conditions, and weather conditions. There was much more need for service presunrise than there was for post-sunset, where all of these emergency conditions could have been addressed all during the day by the radio stations.

We also have a problem as far as getting agreement with our neighboring countries and the only way that we could really sell extended hours to the neighboring countries was an emergency type argument that we made for presunrise operation that this was definitely needed by the citizens of our country when they got up in the morning and wanted this particular type of emergency news.

Senator PRESSLER. So those policy reasons would be true at the end of the school day, would they not?

Mr. JOHNSON. At the time the decision was made, the understanding was that the radio stations would all have been operating during the daytime. The newspapers would have been printing their editions. A lot of information would have been given to the public regarding all of these emergency type situations. The emergency type situation is what really sold the presunrise agreement with the Canadians and later with the Mexicans. That is the reason the Commission went for 500 watts presunrise.

There is another reason also. When you start operating at presunrise, the interference condition gets better. There is less interference as you go into the daytime condition. At night you start with more nearly daytime conditions and go into skywave or nighttime conditions, so the interference is increasing. That was another consideration that was given.

Senator PRESSLER. I must go on to another committee meeting where they need a quorum. I think this has been a good hearing. We will be submitting questions for the record and also allowing other people to respond to the same questions here, because I think we have some basic disagreements here. I have some basic disagreements with the last panel, whose testimony was well expressed in their written statement.

My feeling is that it is ironic that we have big city high power station owners telling us that their stations are important for rural or small town areas and that we must keep local rural stations off the air to protect those big stations. However, we have the rural

people that these stations say they wish to serve saying, please let us have local service rather than distant service.

It strikes me that some of these large station owners are taking a big brother attitude, telling rural folks what is best for them whether they like it or not. I really feel strongly that the smaller stations will not be bothering the big ones, and we do not need to be locked into this present situation. I feel very strongly about that.

In any event, I want everybody to have their say, and people can add to their statements.

I want to thank you all for coming. We are going to have another hearing in Sioux Falls, SD. Then we will have completed our scheduled hearings and we can move the legislation forward.

Thank you very much.

[Whereupon, at 11:55 a.m., the subcommittee was adjourned, to reconvene upon the call of the Chair.]

DAYTIME BROADCASTING ISSUES

SATURDAY, APRIL 14, 1984

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON COMMUNICATIONS,
Sioux Falls, SD.

The subcommittee met, pursuant to notice, at 2 p.m., at the Townhouse Motel, Sioux Falls, SD, Hon. Larry Pressler presiding.

OPENING STATEMENT BY SENATOR PRESSLER

Senator PRESSLER, Welcome to today's hearing on daytime broadcasting. I know some of you have come today not just to listen to this hearing, so afterwards, I'll be glad to talk to you about any other problems that you might have, if you're here for some specific casework.

I'm sorry that I got here too late to greet each of you personally. I see so many familiar faces.

Incidentally, we're going to ask people to limit their formal statements to about 5 minutes. We'll enter, for the record, your full statements, but we will move right along. We will also have questions for many of you.

I want to thank the members of the staff of the Communications Subcommittee who have come here. On my right we have Ward White of the majority staff, and we have Cheryl Wallace of the minority staff. I want to thank both of them for being here.

About one-third of all the bills that are introduced in the U.S. Senate are referred to the Commerce Committee—it's a busy committee to serve on. One of its subcommittees is the Subcommittee on Communications. It's chaired by Senator Goldwater, who was in South Dakota with me about 3 weeks ago. The ranking minority member on that committee also is very active.

I want to thank Dick and Mary Kelly of the Townhouse Motel for making this facility available to us, first of all.

I am pleased that we have this opportunity to review the goals and provisions of S. 880, my daytimer's bill. This is especially pertinent and timely in light of the Federal Communications Commission's action of last Wednesday, April 11.

As you will hear today, the Commission has taken a big step forward in relieving the regulatory burdens facing our daytime broadcasters, but I also will say we have a lot of work left to do.

Last week the Senate Commerce Subcommittee on Communications held hearings on S. 880 at my request in Washington, DC. At that time I urged the Commission to give more operating power

and longer operating hours to the Nation's 2,400 daytime stations, 17 of which are located in South Dakota.

I mentioned at that time that the changes set forth in S. 880 would benefit two important groups of Americans: small businessmen who own and operate daytime AM radio stations, and the audiences they serve—primarily Americans in small towns and rural areas.

Witnesses at that Washington hearing included South Dakota broadcaster John Goeman of Madison, who serves on the board of directors for the Daytime Broadcasting Association. His testimony and that of other representatives of daytime stations throughout this country made it absolutely clear that these small businessmen are only asking for the chance to provide service to their communities. Service does not necessarily mean only music or talk shows offered by distant stations, but local weather reports, road conditions, school closings, and late breaking markets for our farmers.

I heard just this morning a report that one of the Madison lakes is rising, and I'm sure that people will be very interested in that into the evening hours and early morning hours, as well as daytime hours.

In the 1930's, as the radio industry was just beginning, the FCC determined that the best way to encourage national radio service was to license a few large clear-channel stations to provide programming over large service areas. As more and more radio stations were licensed, the Commission authorized local daytime radio service on these clear-channel frequencies but prohibited nighttime service in order to protect the skywave signal of the clear-channel stations.

Today there are 59 clear-channel stations out of a total of 4,708 commercial AM radio stations. The skywave signal protection for these few big stations has inhibited the service and financial growth of hundreds of smaller local radio stations. This protection, perhaps valid 50 years ago, is no longer justified for several reasons.

First of all, the broadcasting industry has expanded dramatically in the last decades. Today, there are hundreds of radio and television stations in operation. The coming years will see even more diversity in programming as the low-power TV and direct broadcast satellite industries are developed. Americans do not need to rely on a few big radio stations located hundreds of miles away when several local broadcasting outlets are available.

Second, our national communications policy encourages local broadcast service wherever possible. If given a choice, Americans generally will prefer local radio coverage of community events, weather conditions and municipal government activities. An extension of daytime radio service is particularly useful to rural Americans. Farmers and ranchers need timely weather reports.

Finally, the skywave signal immediately before sunrise and immediately after sunset is weak. Our national communications policy should advocate increased local broadcast service, rather than allow regulatory protection of the skywave signal during its least effective time. It is only this transitional period that S. 880 addresses.

My legislation would expand daytimers' operating hours an additional 2 hours before sunrise and 2 hours after sunset if two conditions are met. This expansion cannot cause objectionable interference to the groundwave signals of existing AM stations. Also, this expansion must be consistent with international agreements to which our Government is a party.

Last September, the FCC released a decision in docket No. 82-538, which has been billed as relief for the daytimers. The demonstrated success of daytime only stations in providing service during the present sunrise period of the morning should have provided adequate evidence that similar operation in the post-sunset period would be likewise acceptable. Unfortunately, in almost every case, the power levels provided by that decision proved to be disappointingly low. Many daytimers were informed they could use power of only 20 to 30 watts post-sunset under the September decision.

This past Wednesday, the FCC acted upon the Daytime Broadcasters Association's petition for reconsideration, and I might say that the daytimers association has really done a lot of work. They are the little guys, so to speak, in the industry, usually the entrepreneurs and first-time owners.

It appears that this decision will mean substantial relief to the daytime broadcasters who have class III stations. The Commission has informed me that these stations will now have significant increases in power. Many will be able to operate somewhere in the 200- and 500-watt range. The Commission has decided that no station will be given less than 100 watts, and the stations may use this power until 6 p.m. local time. This is good news.

Some of the class II stations also will be helped by the April 11 decision. The Commission has incorporated the introduction of diurnal curves as a basis for determining permitted radiation by daytime-only stations. For the daytime stations on foreign clear channels, the Commission said it would increase their power by making the calculation at the end of each hour during the 2-hour post-sunset period. Similar adjustments will help some of the daytime only stations on U.S. clear channels.

The FCC decision is obviously an important first step, and I emphasize first step, toward deregulation for the little guy. We will not know until summer how much power each station will be given. That's really the key question.

S. 880, which has been reported by the Commerce Committee, also has provisions affecting procedural hurdles facing daytimers. These issues and the need for the opportunity to serve local communities will be addressed in today's testimony.

The changes made on Wednesday and the changes suggested in S. 880 are long overdue. Thirty years of improvements in radio communications make it clear that the regulations needed in the 1950's are no longer necessary. I look forward to hearing the testimony of South Dakota, Minnesota, and Nebraska broadcasters who are with us today.

Let me say that this hearing is a very critical part of the legislative process. We have reported the bill out of the Senate Commerce Committee, but objections were raised that we did not have adequate hearings. This hearing, and the previous hearing in Washington should answer those concerns.

It's always hard to explain to high school government classes, which I speak to frequently, exactly how our process works in Washington. This is particularly true in the communications area. In the time I've been on the Communications Subcommittee, the FCC frequently responds to congressional signals. We have a bill in Congress in some area, and the FCC wisely reacts before Congress gets to a final vote. The FCC has taken signals very well from Congress and this is one area where I hope that is happening. However, we still want to pass our bill to make it complete, to put it into law.

The FCC did take a good step this week. And we do think we've made some progress in this area, but we don't know what the wattage will be.

Also, for those in the audience who are not broadcasters, let me just boil this down from my point of view. I'm sure that somebody who's opposed to the bill will boil it down briefly, maybe with a different slant. Last March, I was driving from Milbank to Watertown. I was going to fly but there was too much fog. It was in the evening, and I wanted to find out what was going on with the weather. I had spoken at the Lincoln Day dinner in Milbank, and I could not get a local station to tell me about the weather. I could get Tulsa, OK. I could get Texas. I could get lots of places. I could get a talk show about street repair in some unknown city somewhere but I couldn't get any local weather or news.

S. 880 does not involve all-night programming. We're talking about a 2-hour extension, presunrise and post-sunset.

Also let me say to some of the laymen that we have had some tough weather situations. We had a very bad blizzard, centered in Minnesota, where several people died last winter. Some people say, well, during an emergency, you can go on the air anyway. That may be true, but you have to make that decision, which puts that at some risk. Also, your listening audience doesn't know you're going to be on, so if you want to find out what's happening to the lake over in Madison tonight or early tomorrow morning, you probably won't hear it on a Tulsa, OK, station. That being said, I think we will move right along.

First of all, we're going to hear from the FCC itself, from Mr. John Kamp, who does such a good job as Legal Assistant to the mass media Bureau Chief. We appreciate your coming out to South Dakota and looking at some of our problems. We're going to follow that with a panel who, I think, will support the bill. This panel consists mainly of South Dakota daytimers. We are going to have a panel in opposition to the bill. Perhaps my opening statement has been so persuasive they will change their views. Panel 3 are persons from South Dakota and Nebraska and Minnesota.

May I say that Jim Wychor of Worthington, MN, has done a great job nationally in organizing the daytimers. As in any other business, the large companies, the big clear channels, the big city stations have more power, I think, in the industry. The little ones have more numbers, but they don't attend the meetings, so he has been organizing them nationwide, and John Goeman has been helping him. I have attended one or two of their meetings and they're pretty impressive.

Mr. Kamp, we'll start with you.

STATEMENT OF JOHN KAMP, LEGAL ASSISTANT FOR THE BUREAU CHIEF, FEDERAL COMMUNICATIONS COMMISSION

Mr. KAMP. Thank you very much, Senator. I appreciate the opportunity to be here today, and I want, first of all, to tell you that Chairman Mark Fowler asked me to personally tell you that he was disappointed about not being here today, but I must say that I appreciate this particular opportunity to testify for him because I was born down the road just a few miles in Rock Rapids and I grew up listening to the fine programming of several of the stations that are represented here today.

I, in fact, want to just give you a slight personal note because it's nice to know, I think, occasionally that not all of the representatives from Washington are terminal bureaucrats and that many of us are real people also. I wanted to note that I had grown up listening to things like from Our Miss Brooks to President Eisenhower's farm program on a daytimer station.

I heard WNAX in Yankton, SD, in my youth and I still occasionally have in my brain a tune that was played every morning on the Spencer, IA, KCID station called "Bring Out Those Old Records." I think it was an introduction to their news program. So I have to—I think I have to say that those stations and Oley Olson's station in Le Mars, IA, are stations that I feel very close to.

I care about AM. I care about it in places like Pierre and Yankton and Sioux Falls, and I am very proud to be here with you and others to help. All of us have come together to join and solve some of the problems that you correctly have identified.

I would like to begin by saying proudly that my agency for the past several years has, coincidentally, with the help of both Democrat and Republican administrations, and particularly with the guidance of Congress, has worked very hard to make more efficient use of the broadcast spectrum. This includes not only AM broadcasting as applies to daytimers but to all of the other spectrum uses we have.

In many of my public statements, I've used an analogy I wish to use here, and perhaps it's an analogy that I always preface by telling them that I am an old Iowa farmboy. I see the radio spectrum, in effect, as somewhat like a cornfield that in modern technology has allowed inventive farmers to expand the production.

While the engineers have produced better and better radios and transmitters, fertilizers, if you will, to increase the range of those stations and the quality of the receivers, the Commission has authorized all sorts of sophisticated new uses of the existing spectrum. It is as if we have taken the cornfield of the fifties and began to plant corn in the ditches or at least to the fenceline.

The Commission is at the forefront of such innovations, but it understands that engineers like farmers may be marvelous innovators at times, but they are not magicians. So far we have not learned to plant corn between the rows without harming the production of the corn itself.

To date the Commission has made great progress, I think, in expanding the production of daytime broadcasters, and I would like to give a very brief summary of some of those efforts. The matter, of course, is not new. The Commission has taken a number of ac-

tions over the past 20 years to try to achieve the results that your bill seeks; that is, in effect, to provide flexibility to daytime only stations without undue interference to other broadcasters. It is at best, however, a very difficult task.

Originally, daytimers were permitted to operate on presunrise only if other broadcasters did not complain of interference. Increasing difficulty with this rather imprecise standard caused the Commission in 1967 to adopt a rule which permitted certain daytimers to operate at reduced power beginning at 6 a.m.

The opportunity was extended to more stations as the years have gone by. In the late 1970's, the Commission turned its attention to the demands of daytimers for post-sunset operating authority, and in September 1983, as you have already mentioned, we adopted a major new rule to provide such post-sunset authority at power levels which will not result in interference for domestic and foreign stations.

Just last Wednesday, in an action that was taken on reconsideration of that order, the Commission expanded the scope of the post-sunset authority for daytimers on regional channels, that is, class III channels, by revising the interference calculations in a way that permits them to increase power after sunset after 6 p.m. local time. The Commission also determined that these regional stations would be given a post-sunset power minimum of 100 watts.

At the moment, the new authority extends to 6 p.m. local time. However, it will eventually extend 2 hours past sunset when all the necessary agreements have been reached with neighboring countries. I have included a summary of the news release on that decision and have submitted it here today as part of the record.

Thus, almost all daytimers will be under the new rules of operating authority which extends in certain seasons of the year to as late as 10 or 11 at night.

The recent amendments and our new agreement with Canada also open the way to new presunrise operations by a substantial number of daytime only stations on the Canadian and domestic clear channels. The Commission issued a public notice on this matter just last month, and it, too, has been submitted for the record.

Summarizing these recent actions, I must say that the Commission appears to be clearly on board with the spirit and apparent attempt of your bill, S. 880. That is, the Commission is committed to continue evaluation of the problems of daytimers, and in light of all new opportunities brought by technical and other changes, seeking ways to meet their demands without severely damaging our longstanding program of providing radio service to all sections of the Nation and to all citizens of the United States, but I must not mislead you or anyone else here today.

The issue before us and before you in the context of S. 880 is one of interference among broadcasters. It is a very complex issue, especially when one recognizes that the AM broadcasting system in the United States is extremely mature. We have been in engineering in stations for over 60 years, and as a result, our flexibility today is severely limited. You might say that the AM digits are in full production. It is very difficult to extend operating authorities

for one group of broadcasters without causing interference to others.

And perhaps one of the most difficult problems to understand is the fact that at night, the interference extends out much further than any added service, thus allowing the single daytime-only station enough power to fully serve an area of 15 to 25 miles in radius around the stations and to effectively eliminate the current service from a clear-channel broadcaster over an area covering several States, perhaps as much as three-fourths of the land area of the United States.

The tradeoffs can be very dramatic indeed, and these concerns, it seems to us, are expressed in S. 880 and in the associated text of the bill. You are correct on your bill to focus on this problem. It is a curse because of the inflexible laws of physics and the reality of radio propagation in the AM band. There's nothing we can do to change them.

The full text of my comments today contains an analysis by section of the provisions of the bill, and I will not repeat them here this afternoon. Of course, the staff of the FCC stands ready to assist you in any way as you consider this matter further.

We of the Commission share the goals of S. 880, but, in summary, we believe that it would be preferable to permit the FCC to continue to fashion specific provisions governing the operation of daytime-only stations during nighttime hours when there is such a great risk of an extensive destruction of needed services provided by other stations.

I can assure you here today, and I believe our recent actions affirm this, that we will do our best to maintain an appropriate balance in this regard. We recognize the daytime-only broadcasters are frequently the only voice in rural America, and we are anxious for them to prosper in order that they may more fully serve their local communities. Our consideration will, of course, focus first and last and always on the needs of the radio listener, the consumer of broadcasting and not the providers.

Thank you again for inviting me to provide this testimony, and I'd be pleased to answer any questions you might have.

Senator PRESSLER. First of all, as I understand the process, the FCC must complete computer analyses for the daytime stations and notify them individually as to what their new authorizations are. When will these stations start receiving these notifications, and when do you believe we will start to see the results of the Wednesday order?

Mr. KAMP. We don't know exactly how long it will take to complete the process of informing the stations. I understand that the computer operation has—since Friday, they have been working on the computer operation to get all of it into the computer, and that we should begin knowing those figures within 2 or 3 months, and we are—I understand that the staff has made a promise to us that they will have that—they will begin to give the authorizations as early in the summer and that we will have that completed by midsummer or perhaps somewhat later, but it's certain that they will be ready by very early fall when it becomes most important.

One of the reasons why it's not absolutely—although we want to give each station their precise numbers as quickly as possible,

these figures become most important again in the fall as the days become shorter and the nighttime operations become—begin to be curtailed sooner. So I can tell you, although we do not have the job done yet, we, in fact, for—and in terms of starting to load the data in the computer, we just began this week. We are fully committed to getting those authorization notices to each of the stations this summer or in very early fall.

Senator PRESSLER. I guess particularly in a farm area, some people are used to getting up and turning on the radio at 6:30, and you have some stations that disappear from the air several months of the year and then reappear again when the sunrise, is at 6:30 or a quarter to seven. Will extending these times hurt any other stations?

Mr. KAMP. The latest order on Wednesday did change the way in which the interference calculations will be made. In doing so, in the past, in the order as we had adopted it in October of last year, we used a so-called—sort of a Washingtonian term that I hate to use in the real world, but used what was called a worst case scenario, and that is the interference calculations were based on the darkest hours rather than on the lighter hours, and what the Commission did and how it was able to come up with the improvement in the powers in this order on Wednesday was, in effect, to do something that amounted to splitting the difference, and instead of using worst days, it used a middle range calculation. It will mean that some stations will be receiving some more interference than they would have otherwise.

There's no way in this AM business to develop a system where you can add someone's service without taking from some others, but we're hoping that because of the propagation patterns during the so-called transition period, that this harm will not be such that it will have a deterrent effect or an absolute marked effect on any of the stations that are affected.

Senator PRESSLER. Good. In the press release attached to your testimony, it states that the Commission addressed additional issues regarding daytimers, including an exemption from rule 73.37(e), preferences for daytimers who seek new FM assignments and preferences for daytimers who seek full-time AM stations. Can you tell me how soon the FCC is expected to complete those actions and what the Commission is likely to decide?

Mr. KAMP. Timing is somewhat easier to determine than the decisions of my Commission. I learned a long time ago when I first came to the Commission to only guess and usually to keep those guesses to myself on what the Commission might do, but I will try to give you a reasonable estimate of what I think the situation is on these.

The question about the preference for daytimers who apply for full-time authority, especially the FM's that are a result of the 80–90—the so-called docket 80-90 decision, where the Commission, in fact, is going to make available a considerable number of new FM stations, particularly in rural areas, the Commission initiated the notice of proposed rulemaking where it will be studying the daytimers' preference motions about 6 weeks ago in a Commission meeting.

We expect, because that is tied up in another—it's tied up in the allocations process, in that 80-90 proceeding, that that proceeding should be completed in no more than a year, perhaps as soon as 6 months from now, and so that question will be resolved at the same time.

I presume—I know that my Commission, and I speak because I've talked about this personally to specific members of the Commission—the Commission is dedicated to make those stations available in those markets where the daytimer stations are now and that it does understand the plight of those—the existing licensees in that area, and I presume that their action on that docket will reflect that.

You asked about 73.37(e) which is the possibility that daytimers may be exempted from a certain portion of that section of our rules. Let me explain just quickly what 73.37(e) is and then what I expect to happen there. The rulemaking—the rule in 73.37(e) says that when we add a new AM station, that the most important priority for those stations is to put them in areas where there is no service—or no local service or no nighttime service, in that order, and that if you are in a market that does not have that kind of service, you will be the number one priority. In effect 73.37 is the Commission's—one of the Commission's ways of taking care of an associated part of our statute, that is, section 307(b) of the Communications Act which says that those people that do not now have service should be the first ones to get service.

The Commission does intend, however, in the near future to open up rulemaking on 73.37(e) and look at the possibility of almost automatic decisionmaking that's caused by that to be changed somewhat to allow the Commission a little bit more flexibility in the area.

One of the reasons why the Commission thinks that it can look at that again is because, as you had stated earlier, the great increase of stations nationwide, and the situation now is that there are very very few areas except at night in rural areas where we have so-called white areas, those areas that are not served by AM or FM radio, but we think that if we open up rulemaking in that area, we may have some increased flexibility and make it easier for many daytimers to put full-time stations in their communities even if there are already existing some full-time stations. The Commission intends to open up that rulemaking in this fiscal year, and I would presume that that rulemaking would be completed within 6 months to a year after that.

Senator PRESSLER. Thank you very much.

Mr. KAMP. Thank you, Senator.

[The statement follows:]

STATEMENT OF JOHN KAMP, MASS MEDIA BUREAU, FEDERAL COMMUNICATIONS COMMISSION

The FCC feels much concern with the problems of the more than two thousand daytime-only AM radio stations, and I am pleased to appear here today to comment on S. 880. The underlying objective of S. 880—reduced strictures on their operations—has motivated recent FCC rule amendments that have significantly enlarged the scope of the service they are able to render during pre-sunrise and post-sunset hours. The FCC strongly desires to afford to daytime-only broadcasters the

fullest possible measure of relief from limitations on their transmissions before sunrise and after sunset, and thus supports the ultimate goals of the Bill.

FCC ACTIONS TO RELIEVE DAYTIME-ONLY STATIONS

Over the years, as AM broadcasting has evolved and changed the Commission has progressively enlarged the extend of operations of daytime-only stations during nighttime hours. Originally, they were permitted to operate during designated pre-sunrise hours only in the absence of complaint by unlimited-time stations that they were receiving interference. Increasing difficulty with this imprecise standard caused the Commission, in 1967, to substitute a rule permitting certain classes of daytime-only stations to operate from 6 AM to local sunrise at powers not to exceed 500 watts. This opportunity was subsequently extended to additional classes of daytime-only stations, as enabling change in agreements with our neighboring countries permitted.

On September 20, 1983, the Commission adopted important further revisions to its rules that significantly widened still further the scope of permitted operations by daytime-only stations. These new rules are consistent with several provisions of S. 880. One important new benefit they brought is that daytime-only stations may now for the first time operate during post-sunset hours, until 6 p.m., at powers that will not result in interference to protected domestic or foreign stations. To a substantial degree, the protection required is to the primarly, groundwave service of protected stations.

On April 11, the Commission further expanded the scope of post-sunset operations by daytimers on regional channels by revising interference calculations in a way that permits many of them to increase the power they use after sunset until 6 p.m. local time. Also the Commission established a 100-watt minimum for post-sunset operations by these stations until 6 p.m.[1]

When the current negotiations with Mexico are concluded, the already adopted new rules will make it possible for daytime-only stations to operate up to two hours after local sunset. Such a provision is already included in the new United States-Canada agreement. Eventually, some daytime-only stations will be permitted to operate as late as 10 to 11 p.m. during summer months, depending on their latitude and the consequent hour of local sunset.

Another notable change recently incorporated in the Commission's rules is the introduction of diunral curves as a basis for determining the permitted radiation by daytime-only stations toward protected stations. These curves have also been introduced into the agreement with Canada, and Mexican agreement to their use is being sought. They have the effect, generally, of increasing the amount of power that daytime-only stations are permitted to radiate toward protected stations.

The recent rule amendments and the new agreement with Canada also opened the way to new pre-sunrise operations by substantial numbers of daytime-only stations on Canadian and domestice clear channnels.[2] The Commission also has under consideration several additional relaxations of present restrictions in its reconsideration of recent rule changes. I will address that matter later in these comments.

THE CRITICAL QUESTION

What confronts both the Commission and Congress in considering further widening of the scope of operations by daytime-only stations during nighttime hours is the very difficult technical question: How far can the relaxation of present limitations be carried without creating disproportionate destruction of the service rendered by over two thousand other AM stations that are authorized to operate unlimited time? The issue is interference among broadcasters. The advanced degree to which most of the AM spectrum has been taken up by the proliferation of stations that have increasingly crowded most of the AM band must be recognized in answering this question. AM has been with us for over 50 years, and it may fairly be described as a mature broadcasting service. As such it is not amenable to sweeping changes or major redesign work which would result in needless disruption of established listening patterns. This is not to say that the service cannot be improved by judicious fine tuning. But we must be careful. Most of the slack has been taken up, and we are

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[1] *See* the *News Release* giving further details on this matter published Wednesday April 11 attached as Appendix A.

[2] A *Publish Notice* entitled "Pre-Sunrise Authorizations on Canadian Clear Channels Being Issued" was released by the Commission on March 20, 1984. A copy is submitted for the record as Appendix B to this statement.

rapidly approaching the point where gains for some can be achieved only at the expense of others. The reasons for this may be briefly summarized.

PERTINENT FACTORS

All radio signals possess two basic attributes; one is the capability of conveying information, such as words or pictures over long distances. The second is the propensity to interfere with each other over even longer distances. Immutable laws of physics and signal propagation cause the signals of AM stations to range out many times farther from their transmitters at night than during the daytime. Thus, the area within which AM stations on the same frequency destroy each other's signals is substantially greater than the areas where they can render interference-free service; and this problem is greatly increased at night.

The task of spectrum management is to devise rules and procedures that will allow radio stations to provide service where it is needed, while simultaneously holding interference to a tolerable level. Management of the AM broadcast band is greatly complicated by the fact that AM signals have one mode of propagation in the daytime but two modes at night. At all times during the day and night, AM signals travel over the surface of the earth and have a useful service radius of approximately 15 to 150 miles, depending on frequency, power and local conditions. This is called groundwave or primary service. Additionally, at night, AM signals are reflected from the ionosphere and return to earth at distances ranging from 100 to over 1,000 miles from their points of origin. Class I stations are permitted to take advantage of this, and provide a secondary or skywave service. For all other stations, skywave signals are purely a cause of interference; they are the reason why we can operate only half as many AM stations at night as we can during the day. Stated simply, for every square mile of expanded nighttime coverage for a daytime-only station, the cost is ten square miles of coverage for an existing full-time station.

These interference problems have caused the Commission to do a number of things to minimize problems for the listener. We have historically confined the operation of some stations with full power to daytime hours. We have also required most of the unlimited-time AM stations to reduce the scope of their nighttime operations by lowering their transmitter power at sunset, operating with more limiting directional antennas, or both. Added increments of new interference during nighttime hours would have the effect of still further reducing the amount of service that unlimited-time stations can render. Clear channel stations, which provide secondary (skywave) service to wide areas that have no local service at night would also be prevented, by new interference, from performing that function to the extent that they now do. thus, propagation considerations compel a comparative evaluation of the service gains and loses that would result from any mode of relief to daytime-only stations.

COMMENTS ON THE PROVISIONS OF S. 880

The following observations concerning particular provisions of S. 880 are offered in the spirit of seeking to determine what relief could be provided without excessive service loss—the goal that I believe that both Congress and the Commission share.

The Commission supports the objectives of the proposed addition to Section 307(b) of the Communications Act of 1934. This part of S. 880 wisely provides for due protection to the groundwave service of existing AM stations. To that extent it is consistent with the above-mentioned 1983 amendments to the FCC rules. It also properly avoids violation of treaties and other international agreements. However, the Bill would appear to prohibit the FCC from restricting operations during those four hours in order to protect the secondary service provided by skywave signals of clear channel stations. While it is true that the capacity of clear channel stations to provide skywave service is not fully developed until the second hour after sunset, and that a corresponding deterioration of skywave service takes place during the two hours before sunrise, it is nevertheless true that, during all nighttime hours, over half the land area of the United States depends on such skywave signals as the clear channel stations provide, and that this affects millions of people living in those areas, plus those traveling through them. In these circumstances, it appears strongly desirable that some protection by provided to skywave, as well as to groundwave service.

While again supporting what we understand is the underlying objective of the proposed new subsection (j) of section 309 of the Communications Act, (proposed by further amendment to be redesignated as subsection (k)), we note that this provision would appear to force the grant of applications for new AM stations without regard

to the numbers of AM or FM services already available in the communities to be served, and irrespective of the availability of FM channels that would be used to serve those communities. This would result in consuming much of the dwindling amounts of remaining AM spectrum for stations in communities served by a multiplicity of AM and FM signals, and would therefore introduce a restriction in the Commission's ability to manage spectrum allocations so as to protect and foster the opportunity of unserved and underserved places to obtain service. Efficient broadcast spectrum management serving the basic objective of "such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide fair, efficient and equitable distribution of radio service among the several States and communities to each of the same" has stood for half a century as the basic, traditional goal of Section 307(b). The question of whether the objective of assisting daytime-only broadcasters warrants so profound a departure from this cornerstone principle as the proposed amendment to Section 307(b) would effect appears to merit serious Congressional consideration.

The proposed new subsection (k) of section 309 (subsequently redesignated as subsection (l)) would remove the "comparative demerit" for daytimers, provided they agree to relinquish their present licenses if their applications for such new stations are granted. That is now our standard practice; and in MM Docket No. 84-231 we are going even further and asking whether daytimers should enjoy a comparative "preference" in such cases. Legislation on this would therefore not appear to be necessary.

We do not believe that applications to change the hours of daytime AM stations should be deemed "minor change" applications, as provided in new subsection 309(d). Changing our present procedure of treating changes in hours of operation as major changes could result in foreclosing the opportunity of a daytime station to obtain nighttime operation. Since applications to change hours of operation have the potential for creating mutually exclusive situations, unless these applications are considered to be major changes, it would not be possible to provide the necessary "cut-off" protection to these applicants. Instead, there would be no deadline for filing conflicting applications, and this would impose substantial additional burdens on the Commission and ultimately penalize the applicant. The Commission would be required to repeat its studies of the applicant's engineering showing each time a new mutually exclusive application is filed, and administrative finality might never be reached. This process would severely delay the ultimate grant of any such application.

The Commission is aware, however, of the desirability of simplifying as far as possible the procedures by which daytime-only stations may extend their hours of operation and take advantage of opportunities to increase the power they use during pre-sunrise and post-sunset operations. Innovative procedures have already been adopted that substantially curtail the burden and expense of daytime-only stations in obtaining authorizations to extend their hours of nighttime operations and increase the powers they use during such hours. For all of the foregoing reasons, we believe it would be preferable to avoid rigid legislative procedural provisions such as that contemplated in the proposed new section 309(d).

CONCLUSION

Again, the Commission remains dedicated to the effort to alleviate the restrictions on daytime-only stations to the fullest practicable extent. We thus share the goals of S. 880, but, in summary, we believe it would be preferable to permit the FCC to continue to fashion the specific provisions governing the operation of daytime-only stations during nighttime hours when there is such grave risk of extensive destruction of needed services provided by other stations. In seeking to maintain an appropriate balance in this regard, we shall take care to give due weight to the fact that daytimers are frequently "the only voice in town" in rural America, and we are anxious for them to prosper in order that they may more fully serve their local communities.

Thank you very much.

Appendix A

ACTION IN DOCKET CASE—FCC MODIFIES RULES AUTHORIZING POST-SUNSET OPERATION OF DAYTIME-ONLY AM'S (BC DOCKET 82-536 AND DOCKET 18421)

The Commission has decided to allow Class III daytime-only AM stations to increase post-sunset power to 100 watts minimum and to use this power until 6 p.m. local time.

In September 1983, the Commission relaxed its rules to permit expanded hours of operation for daytime stations. Class III stations were permitted to operate two hours beyond local sunset with up to 500 watts power, reduced as necessary to avoid interference. Most Class II stations (those on clear channels) also got post-sunset authority on a non-interference basis. The specific powers varied during the two-hour post-sunset period depending on protection requirements, and in some cases, post-sunset operation was curtailed and for a few was not possible at all.

The Daytime Broadcasters Association requested that all Class III daytime-only stations be able to operate until 6:30 p.m. local time with 500 watts power; that Class II stations on U.S. Class I-A clear channels be given a minimum power of 250 watts; and Class II stations on foreign clear channels be given the maximum power permitted by treaty.

Based on its reexamination, the Commission concluded that it is possible to allow additional power for Class III stations. In order to avoid interference, the Commission adopted a method for calculating the power to be permitted using the mid-time for the first hour rather than the end of the two hour period. The calculation would be made at 30 minutes after sunset (SS+0.5) and would determine the power to be used until 6:00 local time.

Using this method, many more stations could reach a full 500 watts or the same maximum power they use daytime, the FCC said adding that using a mid-time calculation balances matters fairly between the needs of the daytime-only stations for additional power while avoiding excessive interference to the service of full-time stations.

Although most stations will obtain substantial power as a result of this change, some of them would still be below 100 watts. In order for these stations to provide effective post-sunset service, the Commission said it believed it appropriate to provide a 100 watt minimum power for use during this post-sunset period by the all Class III daytime-only stations, except when doing so would cause interference to a foreign station.

With regard to Class II stations, the Commission said it could not sanction increased power without causing devastating interference losses to both groundwave and skywave services. Although across-the-broad relief for Class II stations was not possible, the FCC said it could provide relief for a significant group of stations.

For daytime-only stations on foreign clear channels, the FCC said it could increase their power by making the calculations at the end of each hour during the two hour post-sunset period. Other similar adjustments will help some of the daytime-only stations on U.S. clear channels.

Pointing out that the notice of inquiry in BC Docket 82-538 raised a series of issues regarding steps that might be taken to assist daytime-only stations to overcome the difficulties faced in obtaining nighttime operation, the FCC addressed the following issues:

(1) Should the FCC exempt daytime-only stations from the Section 73.37(e) threshhold requirements for unlimited-time station applications, such as provision of a first primary service, etc. The Commission said it would consider this in the broader proposal urging elimination of Section 73.37(e).

(2) Preference for daytime-only stations seeking FM assignments. The FCC has decided to deal with this issue in MM Docket 84-231, concerning proposed rule changes affecting the assignment of FM channels.

(3) Preference for daytime-only stations seeking unlimited-time AM asisgnments. The FCC deferred decision on the AM aspect until it reaches a decision on the FM aspect in MM Docket 84-231.

(4) Expedition of petitions to assign FM channels. The FCC said it would not pursue this possibility further.

(5) Low Power FM. In a separate concurrent action, the FCC decided not to establish a low power FM service.

(6) Low Power AM operation during nighttime hours. The FCC deferred action until the potential advantages and disadvantages of such service and the need for it can be reviewed further.

(7) Use of local channels. The FCC said it did not find persuasive reasons for initiating rulemaking at this time on a proposal that daytime-only broadcasters be permitted to switch to local channels at night.

Docket 18421 was begun in 1969 to consider a proposed amendment to Section 73.1725(d) concerning the procedures to be followed when limited time and co-channel Class I clear channel stations disagree as to a definite time when the limited station may resume operating during nighttime hours when the Class I is not operating. Noting that even in 1969 there was only one known Class I clear channel sta-

tion co-channel that did not operate substantially 24 hours a day and which had a limited-time station on its channel, the FCC said that the rule has become moot.

Action by the Commission April 11, 1984, by Memorandum Opinion and Order (FCC 84-157). Commissioners Fowler (Chairman), Quello, Dawson, Rivera and Patrick.

For further information contact Frederic D. Schottland, (202) 632-5414.

Appendix B

PRESUNRISE AUTHORIZATIONS ON CANADIAN CLEAR CHANNELS BEING ISSUED

On September 9, 1983, the Commission, adopted a Report and Order in the extended hours rulemaking proceeding in BC Docket 82-538. In addition to new rules that for the first time permitted daytime-only AM stations to operate past their normal sign-off time at local sunset, the Commission adopted rules that will permit more than 180 stations on Canadian Class I-A Clear Channels their first opportunity to operate during the pre-sunrise period. Before such operation could be implemented, it was necessary to reach a bi-lateral agreement with Canada. Since then such an agreement with Canada has been signed.

The necessary calculations for all daytime-only stations on Canadian Clear Channels have been completed and authorizations are being sent to these stations. These notifications include full particulars regarding the power to be utilized as well as the period of operation which will be permitted. No application process will be involved; the station need only indicate its desire to operate pre-sunrise to the Commission and state how any power reduction involved will be accomplished. Operation can begin as soon as the necessary letter is sent to the Commission.

The authorizations set forth the maximum power that can be used for pre-sunrise operation, but such operation is not mandatory. If they prefer, stations may operate with lower power or may decline to operate at all during the pre-sunrise period. For these stations pre-sunrise operation can begin at 6:00 a.m. local time.

(For further information contact Wilson La Follette, 632-5414 or Jonathan David, 632-7792.)

Senator PRESSLER. Next I will call panel one. This panel consists of Mr. John Goeman, the president of KJAM in Madison—he may have an update on the flooding; Jerry Simmons, Sorenson Broadcasting Corp. who is appearing for Dean Sorenson; Don Jacobs, general manager, KXRB, Sioux Falls; Bob Reimers of KBRK, of Brookings, and Willard Morton, of KMMJ, Grand Island, NE, who is here with a message from some Nebraskans. We will start with John Goeman.

John, you've done a good job of organizing nationally. I said before you came in that maybe you would have some news on the lakes for us that we won't be able to get on clear channels. I shouldn't pick on the clear channels. They do a lot of good too.

STATEMENT OF JOHN GOEMAN, PRESIDENT, KJAM, MADISON, SD

Mr. GOEMAN. I have a picture, Senator. It was taken at 10 this morning. I'd like to submit it as evidence. You can see we're still on top of the situation.

Senator PRESSLER. How about that? It's a picture of your tower surrounded by a sea of water.

Mr. GOEMAN. Thank you very much, Senator. I'm indeed honored again to appear before your Communications Subcommittee on S. 880, which you authored. My testimony today is very brief and is a summary of the April 3 testimony in Washington.

Being able to serve their individual community and area with reliable, up-to-date information is the backbone of the daytimer in this country. To provide the best possible service, a radio station must operate during the morning and evening transitional periods.

Now in the case of KJAM in Madison, we have operated 25 years with no interference to anyone during the morning transitional period. During those 25 years, we have never had a complaint filed with us and/or with the Federal Communications Commission, and we feel we would not cause any interference during the evening transitional period either.

We live in a rural area in the northern part of the country with a lot of severe winter weather when daylight hours are the shortest, and we must sign off at 4:45 in the afternoon.

The issue at hand is service. To us, service is broadcasting flood information, as we have done during the past 3 days, providing residents of potential flood areas sandbagging information, information on roads that are washed out, and under water, and so forth. My staff has been operating around the clock for the past 3 days. A radio station several States away can't provide this kind of service.

The daytimers need these transitional hours to broadcast the vital information regarding schools, bus information, road conditions, late-breaking afternoon farm markets, fire announcements, and other information of local and area importance that no other AM broadcast service from 200 to 300 miles away can provide or is even interested in doing.

In KJAM's 25 years, and my 25 years with the station, our goal has been to provide unquestionable reliable information for our community and area. It is time to change the 50-year-old rules that have discriminated against the daytimer of this country.

We are asking for your favorable support of S. 880 because the people of the United States will be better served by the nearly 2400 daytimers of this country. Thank you again.

Senator PRESSLER. Thank you, John, and we have your more lengthy statement which you presented so well in Washington, DC, at our hearing.

Next I will call on Jerry Simmons who is with Sorenson Broadcasting Corp. He is speaking on behalf of himself and Dean Sorenson who is the president, I believe, of the South Dakota Broadcasters.

STATEMENT OF JERRY SIMMONS, SORENSON BROADCASTING CORP.

Mr. SIMMONS. Yes. He's the president. Senator Pressler, we appreciate this opportunity also. Our company, the Sorenson Broadcasting Co., operating two daytime broadcast facilities at one time and now operating a daytime station in a nearby State, we have always found daytime radio stations really treated as second-class citizens when, in fact, it is frequently the only local broadcast service, and in the case where we have been involved, it has been the only AM radio station licensed in the community.

But with the longstanding rules calling for a lower power before sunrise and no service after sunset, your communities are often deprived of early morning weather information, school closings, road reports, and meeting postponements and cancellations.

For a number of years, we operated a station in Hot Springs, SD. It was the only broadcast service, AM or FM, south of Rapid City,

north of Chadron, east of Newcastle, and west of Winner, and you can picture in your mind a giant geographical area served by this facility, but as a daytimer, we were prevented from service before 6 a.m. and service after sunset, and in the mountain time zone at Hot Springs, sunset comes at 4:30 in December.

The end result was our company became frustrated with the quality of service that we could provide and the potential of return on our investment, and we sold the Hot Springs station. It continues to service the area but now without the resources provided by some of our other stations, and the current owners have told us that they have discontinued the network news service, the U.S. Weather Service, weather wire and other cost-cutting public services because of these limitations, so we ask for support also of S. 880.

Senator PRESSLER. Thank you very much. I'll have questions for everybody later.

Don Jacobs, general manager, KXRB, Sioux Falls.

STATEMENT OF DON JACOBS, GENERAL MANAGER, KXRB, SIOUX FALLS, SD

Mr. JACOBS. Thank you. We appreciate the opportunity to testify here today. On March 15, KXRB celebrated its 15 anniversary, and we're really proud to be a part of South Dakota and to serve South Dakota, southwest Iowa, little parts of Nebraska and North Dakota as well.

We have the same disadvantages as other South Dakota daytimers. We serve some of the communities that other South Dakota daytimers serve, but by no means do we feel that we can serve their communities as well as they do. We try to do local news and information from each of the areas that also have daytime stations, but we know we can't serve their area as well as they do. We try to do as good a job as possible in serving those communities within our primary broadcast area.

I guess the most important part of any station's broadcasting is the information and news. Each radio station of ours broadcasts different varieties and some a little bit heavier than others, and that gives the listener the opportunity to choose how much information, weather, markets, sports, et cetera, they want to hear, and in South Dakota, because weather is such an important part, we daytimers are not there to serve those people that need the weather information so badly.

As part of my testimony, I submitted a coverage map that showed communities that had sent outside school closings, and when you take a look at the map, evidently, these schools did feel that we and even the local station could serve them. However, when we don't sign on until 7:15 during the months of December and January—I know my kids get on the bus by 7:15 in the morning out in the rural areas, so we're not there to serve these people; 56 percent of all people 12 plus get news and weather in the morning from radio, and daytimers aren't there to serve them. Newspaper and TV combined don't reach that figure.

KXRB radio has been and will continue to work for a 24-hour license because we feel that we need to serve this area 24 hours a

day. We do, however, feel that all daytime stations should have extended hours and we strongly support S. 880. Thank you.

[The statement follows:]

STATEMENT OF DON JACOBS, GENERAL MANAGER, KXRB, SIOUX FALLS, SD

KXRB strongly supports bill S. 880, which allow daytime AM stations to broadcast four additional hours. Our motives for extended broadcast hours are not selfish or outlandish. Since radio stations strive to program to meet the needs of people, and very few stations duplicate anothers programming exactly, it's not fair to those listeners that enjoy the programming of any daytime station to have to tune away to another station to get much needed information, not just entertainment.

In South Dakota, weather is a very important part of the lives of a lot of people. Some radio stations program more weather reports and information than others, thus allowing individuals to choose exactly what they want to hear. Unfortunately, regular listeners of daytime radio stations are unable to tune in during primary broadcast hours to get the information they need. I've enclosed a copy of a coverage map that shows dots from communities that KXRB radio has received school cancellations from. These schools obviously felt KXRB would reach the parents of some of the children that attended their schools. Since KXRB radio doesn't sign on until 7:15 in Dec. & Jan., we can't give these people the school closings, or delayed bus schedules when they need them. 56% of all persons 12+ get their news and weather first in the morning from radio. More people turn to radio first in the morning than TV and Newspapers together. Daytimers aren't there to serve these people when we should.

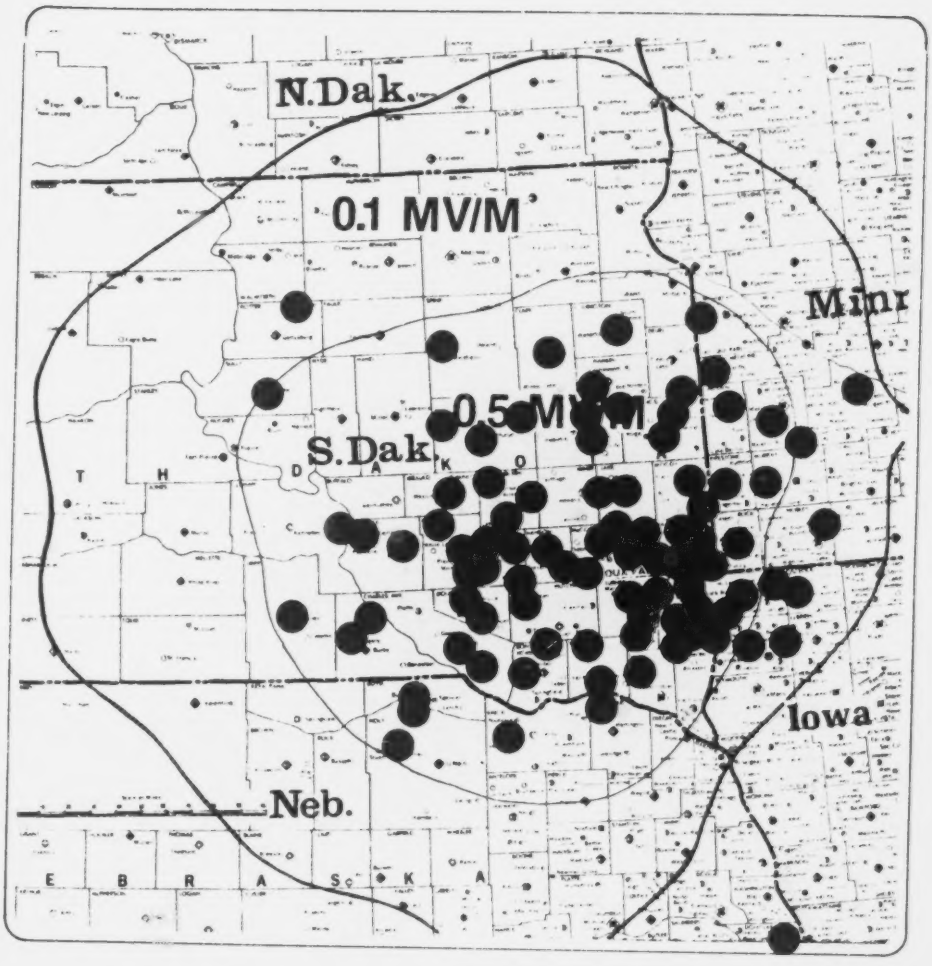
The same is true for organizations that send us Public Service Announcements. We receive over 100 a month and give these clubs and groups equal coverage. I've attached a current list of PSA's that we currently have on. These people ask our help in reaching club members and getting people to attend their functions but if there is a change in the event or meeting, or a cancellation, we can't help reach these people since we have to sign off the air at 6:15 in Dec. and 6:45 in Jan.

Storms brew up in a hurry in South Dakota, and people that are traveling during evening hours could be jeopardizing their safety if they aren't properly informed by the conditions. When we are forced to go off the air during early evening hours, our regular listeners could possibly turn to a station in another city that doesn't have the conditions that affect our area.

As important as the extended hours are to daytime stations in South Dakota, the proper power to serve that stations primary audience audience is even more important.

Daytime AM radio stations work very hard to provide good service to their listeners, no matter what the music format or the size of the community. Without causing any problems through extended hours, *daytime radio stations listeners* are entitled to the same service during primary broadcast hours.

Attachments.


N.Dak.
0.1 MV/M
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OVERVIEW OF CURRENTLY RUNNING PSA'S ON KXRB-KIOV

On the Solo Parents calendar of events: Tonight at 8 is a social at the YWCA with the Rev. Lewis.

Tonight is a benefit dance for Judy Frey at Pineview Hall—Mitchell, S.D. Music by Country Connections. This is for a cancer fund set up at Commercial Bank.

Tonight and tomorrow night Garretson H.S. presents: "Annie Get Your Gun" at 7:30 each night in the Garretson gym. Reserved seating is available by calling 594-3451.

Physically handicapped children and adults can register now for summer fun at Camp Courage and Courage North. Sessions are also offered for those with speech, hearing and vision impairments. Camp counselors are also needed! For more info. on summer camping for handicapped people call 612-588-0811.

Films on Exploration of the Great Plains are showing Sat. afternoons, 2 p.m., through May 22. It's free at the Old Courthouse Museum.

If you are a high school drop out age 17-26, and meet income guidelines, stop in at Turnabout for a chance to get your G.E.D. and a chance for employment. Turnabout—334 South Phillips—a chance for success!

St. Mary's soph. class of Del Rapids is having a paper drive this Sat. from 9-11 a.m. at St. Mary's parking lot. They will go door to door in the city so please have papers at the curb by 9 a.m. No magazines please.

Minnehaha Co. Women's Political Caucus is sponsoring its annual fundraising luncheon Sat. noon. at Walt and Mary's Restaurant. Advance tickets cost $5.50 and reservations can be made by calling 336-1072.

Hartford Boy Scouts Troop No. 8 will have their paper drive this Sat. Please have papers out by 9 a.m. for pick-up service.

A $50 bond is the prize for the best inscription on a memorial for all veterans of Minnehaha Co. April 15th is the deadline. The prize will be given away on Memorial Day at the DAV open house. Send your entry to: Vets Memorial Project, c/o DAV, 1605 Valley Drive, S.F., S.D. 57105.

"Once in a Lifetime," presented by O'Gorman H.S. April 12-15 at 7:30 p.m.

The puppet show "Hansel and Gretel" presented at the S.F. Public April 9-13. This is for children ages 3-8. Call the library for show times.

On the Solo Parents calendar of events: A hard times party this Sat., 6:30 p.m., at Valley Natl. Bank, 26th and Western. New and prospective members welcome. For more info. call 332-1929.

The Assoc. for Retarded Citizens, Sioux Chapter, will have their second annual style show and brunch this Sat. at the Northlander Restaurant starting at 11 a.m. Tickets available at 336-7075.

The Sioux Valley Genealogical Society presents a cultural heritage workshop "The Road West"—genealogy through railroad and land records. This is this Sat. at the Old Courthouse Museum. Registration from 8:30-9 a.m.

The Military Order of the Cooties annual Easter egg hunt is Palm Sunday (this Sun.) at 8 a.m.—at the Teener Baseball Diamonds at Yankton Trail Park. There will be candy, eggs, and prizes for all children under 12.

During S.F. Library Week, until this Sat., there is amnesty for return of overdue materials! No fines! Stop by the library and return overdue materials and take part in other special events.

Need someone to fill in when your regular employees go on vacation? Call Job Service and ask about the summer youth program funded by the new Job Training Partnership Act. Give a local youth a start.

The mailing deadline for your 1983 tax returns is April 16th because the usual April 15th deadline falls on a Sunday. Special arrangements for tax returns include a collection box in the main Post Office lobby, where you can deposit your return as late as 11:50 p.m. on the 16th. Returns may also be deposited in other collection boxes throughout S.F. on the 16th, but you should check the box pick-up times.

Girls Club Aux. sponsors its 7th "Feathers and Follies" musical extravaganza April 12-14, 8 p.m., at the Jeschke Fine Arts Center, Sioux Falls College. Tickets are available at the Girls Club box office—open 10 a.m.-6 p.m. daily.

The Smithsonian is coming to Sioux Falls! Curators from the Smithsonian Institution will present a series of special programs at several S.F. locations this Friday (13) through Tuesday the 17th. Tickets are $2 for each program and go on sale one-half hour before program at the site. For more info. call the Siouxland Heritage Museums.

Tonight from 7-10 p.m. is the S.F. Men's Slowpitch Assn. world series of imported beer taste testing It's at the S.F. Ramada Inn exhibit hall, with over 35 different imports! (You must be 21 to attend.)

The week of April 8-14 is Sioux Falls Child Abuse and Neglect Prevention Week. Hug a child today!

Too many old books cluttering up your house? Give them to the AAUW used book sale, April 25-28. Call 334-2089 after 5:30 for free pick-up of your books.

The Minnehaha Sportsmens Conservation Club is having a "build a Martin house contest"—cash prizes. Submit Martin houses to Eugene Lodermeir of S.F. Contest closes May 1st.

The S.F. Chapter of the Sweet Adelines meets every Tues. evening, 7:30, at the First United Meth. Church. Anyone interested in singing barbershop is invited to join in!

If someone you know has a problem with chemical dependency, care enough to call for help, toll free—1-800-952-7777. There's hope, at River Park.

The Watertown Jaycettes are now accepting registrations for their 4th Annual Arts in the Parks—this June 2nd, and 3rd. To get a reg. form call 605-886-4738.

Sioux Valley Hospital is now processing applications for the med card, which provides medical answers for ambulance teams, paradmedics, and emergency room personnel who need immediate info. About a victim of accident or illness. The med card can be obtained from Sioux Valley Hospital at no cost.

The Sioux Emperians Barber Shop Chorus is looking for new members. You'll have fun singing every Tuesday evening at 7:30 at First Lutheran Church. Contact Gordan Beck at 338-7415.

Example: (Thursday April 12th) American Legion fish fry serving today from 5-7 p.m. in Harrisburg, S.D., menu: Beer batter fish, coleslaw, potato sald, garlic bread, dessert, coffee and cold drink. Proceeds go to Harrisburg Am. Legion Hall.

Other frequently run PSA's: Square dances, potlucks, trap shoots, YWCA, YMCA, hospital community events, rummage sales and benefit dances.

Senator PRESSLER. Thank you very much. Next we will hear from Bob Reimers, who is the owner of KBRK.

STATEMENT OF BOB REIMERS, OWNER, KBRK, BROOKINGS, SD

Mr. REIMERS. Well, I appreciate the opportunity to appear and present some thoughts that I've had over the many years. Some of them already have been covered.

I think in a rural State such as South Dakota, not only do we have an obligation to serve our own city of license, but many of the daytimers make an effort to serve a lot of smaller communities. This is particularly true with KBRK in Brookings. We have full-time news people in three area towns; one in particular, Flandreau, some 22 miles away, county seat. We have daily broadcasts from Flandreau.

With the post-sunset power authorization that we received last fall, we simply could not get a useable signal into Flandreau, roughly 21 miles away. They have come to rely on us and think of us as a local station for school information, for weather information, and we've had quite a number of comments and phone calls from people in the Flandreau area that the post-sunset power is just not useable for them.

It certainly is for the Brookings area. I think we have 126.2 watts post-sunset power. So any effort to increase power certainly would be a service to a number of smaller towns, not only our city of license, but a number of smaller towns in our area. I certainly would encourage and support the Senate bill.

Senator PRESSLER. Great. Next is Willard Morton of KMMJ in Grand Island. We're really glad you have come up today and we welcome you.

STATEMENT OF WILLARD MORTON, MANAGER, KMMJ, GRAND ISLAND, NE

Mr. MORTON. Thank you very much, sir. I'm glad to be here. I'm here to repesent the radio station and the president of KMMJ, Inc. It is a class II station, 750 kilohertz with power of 10,000 watts and a daytime operation broadcasting since 1925.

We at KMMJ have conducted a never-ceasing effort to improve service to small town and rural citizens in our coverage area. No small part of this effort has been the constant attempt to gain more broadcast hours and the standardization of sign-on, signoff times, regardless of the solar day, in order that more service and additional convenience be rendered the listener.

This effort to be of greater service to the listeners is documented by a vast amount of material filed with the FCC through the years. The curtailed erratic sign-on and signoff, gives the listeners less than optimum service from our facility.

Additional morning times are extremely important to the farmer, rancher, parents of school students, and the list goes on and on.

KMMJ is located in an area of Nebraska which, along with another nearby county, has the highest incidence of tornadoes in the State. We have the dubious title of "Tornado Alley." A great deal of information is disseminated during the entire tornado season which usually starts in April and continues into July.

Because of our large coverage area, the local weather station depends on KMMJ to broadcast the path of the storm cell or cells which may cover a large portion of the State, but we must shut down at our scheduled time. Many of our listeners are then without serviceable nighttime radio reception.

Likewise, during the winter months, the storms turn to blizzards with much snow and high winds, and information needs to be available for students, school parents, stockmen, and the public. Earliest signoff times occur during the winter months, and, once again, daytime radio is forced to curtail broadcast hours.

We respectfully request that daytime broadcast stations be considered for longer broadcast hours with greater power, and we are asking for your favorable support of S. 880 which would allow us to provide more service to our coverage areas.

Complete written testimony is being submitted today. Thank you.

[The statement follows:]

STATEMENT OF WILLARD MORTON, MANAGER, KMMJ, GRAND ISLAND, NE

INTRODUCTION

I am Willard Morton, Manager of KMMJ Radio, Grand Island, Nebraska. I am here to represent Radio Station KMMJ, owned and operated by KMMJ, Inc. KMMJ is a Class II Station on 750kc, with power of 10kw, a daytime operation.

My appearance before this Sub-committee is in support of S 880, introduced by the Honorable Larry Pressler, Senator from South Dakota, regarding Daytime Radio Broadcasting Stations.

We respectfully request that the following text be entered into the record, in behalf of Radio Station KMMJ, Grand Island, Nebraska, and the people of its service area, in support of S 880.

KMMJ HISTORY

KMMJ is among the oldest stations in the nation. It went on the air November 30, 1925 with power of 1 kw. There has been a never-ceasing effort to improve service to small town and rural citizens in its coverage area. No small part of this effort has been the constant attempt to gain more broadcast hours and a standardization of sign-on and sign-off, regardless of the solar day, in order that more service and additional convenience be rendered the listener. This effort to be of greater service to its listeners is documented by the vast amount of material KMMJ has filed with the FCC through the years.

In 1958 KMMJ was granted a power increase to 10 kw on the basis of its desire and willingness to serve an area faithfully with useful, informative, adult program schedule, geared to the agriculturalist. KMMJ has put this increased power to good use, but the fact remains, a curtailed, erratic sign-on and sign-off gives the listeners less than optimum service from the facility. The time period before 8 a.m. plays a vital part in the services broadcast by KMMJ. This is true because early morning is the day's decision time, particularly in the rural area of the KMMJ coverage. The KMMJ facilities and staff have always been geared to take advantage of the extra service we can bring to the listener at the beginning of the day. Our support of S 880 is a continuation of KMMJ's history in the endeavor to obtain additional broadcast hours, at a time of day when those hours of radio service from a station of substance and character, mean the most to listeners.

KMMJ FACILITIES

KMMJ offices and studios are housed in a 4500-square foot building located conveniently near the downtown area of Grand Island. The building is modernized from time-to-time to meet our needs and to improve the quality of the station's sound as well as the editorial content.

The transmitter site built in 1958 and located near Central City, Nebraska consists of a modern building with living quarters, two towers, housing for equipment and other equipment to effect quality transmission.

KMMJ has a complete weather service including a radar tower capable of tracking summer storms up to 150 miles distant.

A direct two-way radio communications capability exists between the Grand Island-Hall County Emergency Operating Center and Radio Station KMMJ, as a backup to the telephone circuits which could be used in an emergency to broadcast directly from the Emergency Operating Center.

As an example, when a tornado warning is issued by the National Weather Service, they in turn will notify the Common Program Central Station—1, Radio Station KMMJ, Grand Island. Radio Station KMMJ will activate the Grand Island Operational Area EBS and issue the appropriate warning. Other media in the area monitor KMMJ. The station manager of KMMJ is the chairperson for EBS Operational Area #8.

According to a statistical report released during the last week of March by the Associated Press, Hall County and one other county in Nebraska within the KMMJ coverage area, had the highest number of tornadoes in the State of Nebraska since 1916. It is therefore important to the safety and welfare of local and area listeners for KMMJ and all Daytime Stations to have extended hours.

KMMJ STAFF

KMMJ has a staff consisting of many veteran broadcasters. Six of them have been with the station more than 10 years each and two of these have been staff members more than 30 years. These individuals, which make up a seasoned nucleus, are familiar with the KMMJ service area. They represent management, programming and engineering, and along with newer personnel such as air voices and farm directors, make the station a friendly, believable source of information and a wholesome companion. Extended hours would allow these people additional opportunity to serve the public.

It is our policy to operate with the largest staff that is economically practical in order that better-than-average service can be provided by KMMJ for its coverage area.

KMMJ PROGRAMMING

The KMMJ program concept is one of mature usefulness. Entertainment is included, but the stress is on service and information of practical value to a population dependent on a midwest agricultural economy. Programming recognizes the

area as one of small cities, towns and dwellers on farms and ranches. Our programming is designed to serve people in these many localities who form a community of interest, united by their economy, regional attitudes and the climate. KMMJ has always operated as an area service facility, devoted to the good and needs of the individual, the community, its business, culture, professional services and agricultural interests. Our programming trend is toward the mature, adult appeal to create respect for what we do and how we act as leading citizens and good neighbors. In our efforts to offer a more complete listener service, KMMJ has developed a production department to create feature programming segments not offered by other stations in the area. These several daily features are researched, written and produced by our own staff. They vary in length from 1½ minutes up to 5 minutes. Typical of subjects treated are, history, current events, arts, sciences and a large portion devoted to agriculture. We are particularly proud of this program service and call attention to it here to indicate our sincere desire to inspire as well as provide bread-and-butter program information. The facilities and the staff maintained to carry out this program approach are predicated on financial success that comes only with acceptance by a substantial audience. The programming which produces results of record, can encompass the additional hours of an extended broadcast day, without any damage to present program quality. Further, it can extend the KMMJ usefulness to more people, over a greater portion of the waking hours.

FLUCTUATING SIGN-ON/SIGN-OFF PROBLEM

Two major problems confront KMMJ due to the fact that the time that we can sign-on the air in the morning and sign-off the air at the end of the day varies throughout the year. Our latest sign-on is 6:45 a.m. and our earliest sign-off is 5:00 p.m.

Of the two problems mentioned above, we are most concerned by our restriction of service caused by a late fluctuating sign-on. We are nevertheless also affected by the operating difficulties which are present under existing conditions and wish herein to make reference to both.

Restriction of Service: KMMJ is limited throughout the year, but more drastically during the winter months by being unable to do a complete service job because of sign-on and sign-off restrictions. A sign-on in the morning as late as 6:45 a.m. in January and a sign-off as early as 5:00 p.m. in December greatly restricts our ability to completely serve the Nebraska farm area. In recent years there has been a trend for metropolitan stations to greatly decrease the amount of farm programming which they are doing. In many cases, stations that have formerly offered farm services, have eliminated all but a limited amount in order to build metropolitan ratings. Other stations in smaller cities have found it beneficial to keep farm service programming to a minimum. Agricultural areas are more dependent than ever on stations such as KMMJ that have good local area coverage and employ trained farm radio personnel that are qualified and equippped to offer a complete farm service. Because of limited operating hours, much of Nebraska is being denied the day and night Farm Radio Service to which they are entitled.

Most farm areas are much more dependent upon radio than are the people living in metropolitan areas. Farm radio becomes the farmers companion, newspaper, business information guide and a protector of his property. In much of the area the daily newspaper reaches the farmer by rural mail delivered a day late. Often for many farmers, there is only a weekly or biweekly paper. He needs complete service in Nebraska day and night to serve his news needs. Weather is another important feature which is of vital importance to an agricultural area. Very often prompt weather service giving severe storm warnings of blizzard conditions in the winter or tornado and high wind conditions in the summer, is necessary to protect the farmers' livestock, crops, property and life. In his business of farming, the farmer depends upon the markets, farm service, farm education features and farm news received by radio to guide him and aid him in doing a better job of farming.

For all practical purposes, KMMJ under its present operating hours, must combine the bulk of its service to the period from 6:45 a.m. to 5:00 p.m. as these are the only hours in which KMMJ listeners may receive their KMMJ farm services on a year around basis at the same designated time each day. Obviously, as our day lengthens in the summer months, we are of service to people earlier in the morning and in the later hours of the afternoon . . . but . . . the listeners must establish new listening habits each month, as our operating hours change. It is difficult, however, to change listening habits each month, and be of maximum service. Listeners in mid-America are entitled to a complete morning schedule of service . . . every morning of the year.

Operating Difficulties: While certainly not as important as service to the listener, we still feel it important to point out some of the difficulties that exist in operating a radio station in which the operating hours fluctuate throughout the year. It must appear obvious that a station cannot make full use of its personnel during the short months of the year when the hours of operation are very limited, as a complete staff of competent people must be maintained for the months in which we operate longer hours in the summer. During the winter months we have more than enough personnel to adequately operate KMMJ. We must, however, keep this personnel during the winter months in order to have a good, trained staff to adequately serve during the summer months. An expansion of time on a year around basis will allow us to stabilize our working personnel in order to get the most effective service from them.

OUTDATED USE OF DISTANT SIGNALS

At one time, when there were only a limited number of radio stations on the air, the listener depended upon distant stations for their services.

There are now over 9000 AM and FM Radio Stations in addition to many Television stations to serve local area interests. This increase in the number of radio stations has made it possible for people to listen to stations in their area, closer to home, which are better equipped to satisfy their service needs. As the number of new stations increased in an area, the high-powered distant stations ceased to be of the same major importance in that area for the following reasons:

1. Distant stations could not deliver a consistant signal at night. Sky wave fading that was once tolerated by necessity was no longer acceptable.
2. A distant station could not serve the agricultural needs of a distant area, even though the station had an exceptionally fine farm department with good farm programming for its own area.
3. Weather in depth is very necessary in a farm area to protect life and property. Distant stations cannot possibly serve the local area needs with detailed weather and storm warnings.
4. Every area is entitled to good, complete news and similar services on a local area basis. The distant station cannot provide this complete service—their press wires do not give them everything except major news stories for distant areas. They, of course, could not have local news reporters to complete the service.
5. Only a station in the local area can be of service to such groups as churches, schools, chamber of commerce, law enforcement agencies, civic clubs, charitable organizations, etc.
6. Problems dealing with service to the home and business cannot adequately be handled by distant stations because of the great differences in characteristics and needs between the areas.

SPECIAL SERVICES IN THE PUBLIC INTEREST

In this section we wish to review for you KMMJ's record of service in the Public Interest and to show the importance of this service to the KMMJ listening audience. The ownership and management of KMMJ have always been dedicated to the fulfillment of their responsibility to the public. We feel, without question, that our record of Service in the Public Interest has been an exceptional one and has contributed greatly to the health, welfare and economic stability of this great agricultural area.

Service to schools

The part KMMJ plays in safety and convenience for schools and school children has been illustrated hundreds of times over the years. Many storms of depth and fury in Nebraska and Kansas have caused blocked roads and forced school cancellations in great numbers. To apprise parents and patrons, school officials appeal to KMMJ by phone, to disseminate the necessary information. Late sign-ons and early sign-offs create many problems. As many as 167 schools have called for assistance in a two-day period. Many of these calls from anxious school officials came long before KMMJ's curtailed sign-on. A major portion of the staff was on hand to take calls, and relay them to mike men. On occassion the entire broadcast schedule has been scrapped until emergency messages had been completed. Extended hour for KMMJ, with sufficient power could have given school patrons additional warning and prevented a phone tie-up at the station that surely must have prevented some calls from getting through.

KMMJ service to livestock markets and farm service

The local livestock auction is most important to the KMMJ audience. The station serves a vast area of both meat-factory feed lots and the range country which is the raw material supply source. Information on individual auctions on any given day is necessary to the economy of the region.

Because of work habits, the farm man can best be served by radio during these periods; 5:00 a.m. to 8:00 a.m.; 11:30 a.m. to 1:30 p.m.; 5:00 p.m. to 8:00 p.m.

In addition to the regular livestock and grain markets, KMMJ offers many other farm services including Farm News, reports of new farming methods, United States Department of Agriculture facts, county agent programs, features from the Nebraska, Iowa and Kansas State Colleges of Agriculture, on-the-spot farm interviews, report of field demonstrations, marketing conditions, conservation work, etc.

Almost every season, KMMJ is called upon for emergency agricultrual service. These special services include help in preventing the spread of livestock epidemics, crop pest control problems, blizzard and storm warnings, conservation of moisture during drouth conditions, control of weeds and diseases, etc. All of the air time necessary during our operating hours is devoted to these problems as they arise.

KMMJ specialized weather service

As apart of the activities of the KMMJ Weather office, the station gathers regular rainfall reports from individuals in the coverage area who have accurate measuring devices. This information is used on the air in addition to that supplied by regular professional and government sources. These specialized rainfall reports are relayed to the U.S. Weather Service office, located at the Grand Island Airport. This office passes them along to the Omaha Weather office. They are then sent to the District River Forecast Section, Kansas City, Missouri, to help gauge the flow of rivers in the KMMJ area, as an aid in determing possible floods. The Grand Island Weather Service office also passes these reports to the Bureau of Reclamation offices.

Road hazards and driving conditions

KMMJ works closely with city officials and the Nebraska State Patrol to give complete road information. This is important to help insure the safety of travelers when severe storm conditions and driving hazards exist.

Nebraska highways carry a heavy load of transcontinental traffic in addition to local traveling within the state.

Nighttime hazards are even more serious than daytime. Extended operating hours, with normal power of KMMJ would allow us to be of more service.

KMMJ's service to flood areas

KMMJ has provided a vital service on many occasions during the past years to give aid and relief to flood disaster areas.

In each of these floods, KMMJ offered its complete facilities to aid the area isolated. Services included:

1. Request for Labor
2. Request for Boats and Materials
3. Request for Food and Supplies
4. Request for Clothing
5. Relaying Information to the Disaster Area
6. Full Spot Coverage of the Floods

In addition to giving aid during flood disasters, KMMJ has always offered facilities to improve conditions in possible flood areas to help guard against future disasters.

KMMJ SUMMARY AND CONCLUSION

We feel the foregoing has shown a definite need for extended broadcast hours for Daytime Stations.

Service is extremely important to everyone because of a rapidly changing society. This service, best brought through the medium of radio must include agricultural information, business information, professional service, weather which includes; road conditions, storm warnings, moisture conditions and other reliable facts for the welfare, education, and life enrichment of the public, our listeners.

Favorable consideration of S. 880 will help the hundreds of Daytime Stations such as KMMJ better serve their respective area.

Thank you for your support.

Senator PRESSLER. Thank you. How many daytimers do you have in Nebraska?

Mr. MORTON. About 25, I believe it is.

Senator PRESSLER. Twenty-five in the whole State?

Mr. MORTON. Twenty-five, yes.

Senator Pressler: That's a small number. Of course, you've probably got some big stations there in the bigger cities.

Mr. MORTON. There are several smaller stations, daytimers, in some of the major cities, yes.

Senator PRESSLER. OK. Well, I think this panel has presented some very useful information. I would like Jerry Simmons to repeat what you said about your area.

If you were living in that area and you wanted local road conditions in certain areas, how would you get them? Describe that again. That's a pretty dramatic area.

Mr. SIMMONS. For quite awhile, when we operated out there—it is kind of a valuable incident that was—there was neither an AM or FM south of Rapid City, north of Chadron, east of Newcastle, WY, and then west of Winner.

Senator PRESSLER. That's a huge geographical area, isn't it?

Mr. SIMMONS. Right.

Senator PRESSLER. Now, in the wintertime, you probably couldn't go on the air until 7:30 on some days and go off at 4:30; is that right?

Mr. SIMMONS. Sunset comes at 4:30 out there in December.

Senator Pressler: I see. That's really a dramatic example of what we're talking about. Now, if you could operate during the times S.880 addresses, would that interfere with anybody else out there?

Mr. SIMMONS. I really don't know.

Senator PRESSLER. Well, I think that's a dramatic example, and I want to pursue that a little bit. Let me ask each of you this question, if we do add 2 extra hours in the morning and evening—these are the transitional periods, not all night—How can we be assured that there will be community programming, some local news, some weather? Of course, it's just good business, I would guess; people want to hear what's going on. They're going to listen, but what steps would be taken voluntarily by these stations to air local community affairs, local weather, and so forth?

Mr. GOEMAN. Well, I guess that's what we're all about, Senator. We don't do anything different than that, so we would do the same during the transitional period in the evening.

Mr. SIMMONS. Since the specialty of a small-town radio station is local news and information, it's really—and certainly in the listener's self-interest but also in the survival of the radio station's self-interest to provide the thing that we are the best at, quick, fast, accurate local news, and without that, certainly many of our stations don't have anything different to offer than anybody else that has a signal in the area, and such things as commission meetings, school board meetings, other events going on, the timeliness of that news is our long suit on which we base much of our advertising, and we build a customer base on that, and that's why the Hot Springs station today, Senator, is having some problems on that.

Mr. JACOBS. We all have an investment in full-time news people, sports people and so forth, and the extension of 2 hours before

sunup and 2 hours after sundown, of course, would not be an extra expense to the radio stations. It would just allow us to serve these people when they needed to be served, ealier in the morning and a little later in the day, and we have these people. We have these people going out and getting the information for us. It's just that we're not able to serve them, and we would definitely serve them as long as we were able to.

On behalf of KXRB and some of the other daytimers here, there is nothing more that we would like and our listeners—I'm sure everyone here has received phone calls over the past years; you know, why can't we get the weather information? What's the problem? And you go on and explain the rules and regulations but these people don't understand. They really don't.

A lot of these stations have loyal listeners here, and sometimes instead of listening to the radio after that point, they just don't listen to the radio at all, and they're not able to get that information, and we've got the people and the accesses to give the information as long as we need to, so by no means would we curtail the amount of information we're giving.

Mr. REIMERS. Well, I think radio in general over the past 10, 15 years—with the advent of FM and the growth of FM, a lot of the strictly music type of programming has more switched to the FM side, and it's a general statement, but AM is thought more of—and in our case, it's definitely a fact—that we think of AM as the information medium, more markets, more weather, more news throughout the day by far than we would ever do on the FM side, so an extension of time would just be an extension in our case of the same type of operation we have throughout the day, and that's additional news and weather. We wouldn't vary, I can't see, from the operation of the entire daytime part of the station.

Mr. MORTON. We have much the same situation. I believe that we would continue in the manner that we are, only bringing more weather, more farm information, perhaps in greater depth than it is at this point. During the bad weather, certainly, we would concentrate entirely upon the information as needed for the listener to avoid the storms as much as possible.

We likewise have full-time people that are available all the year around, but in our shorter broadcast days, of course, we are really having an excess of personnel, but we keep them aboard to have them there during our longer months, so, therefore, there's an economic factor also.

Senator PRESSLER. Well, let me say that in this day and age of media monopolies, the daytimers really are the last instances where the owner and the top management are on the local scene. I think that's an important thing to remember.

One thing, during the transitional period, how much wattage do you need? And that's really a key question here. The FCC's action of the other day is nice, but we won't know much about it until we know how much wattage is authorized. Do you want to address that issue John?

Mr. GOEMAN. Well, as I've presented in both my testimony in Washington and also today, for the past 25 years, we have operated with a presunrise of 500 watts. Last fall, when the FCC issued the

post-sunset authorization, we were granted 62 point something. I'm not sure of the decimal, 62 plus watts.

As I stated in my testimony, in 25 years with 500 watts presunrise, we have not interfered with any station. We have never had a complaint in that 25-year period, and the post-sunset period is the same as the presunrise period as far as physics is concerned.

Senator PRESSLER. Does anybody else want to comment on that?

Mr. MORTON. I think I would, sir. Our transmitter is located 25 miles northeast of Grand Island. With the small amount of additional power that we were granted, which is basically 5.8 watts, we would not get into our city of license at all. We would scarcely get into the nearest city which is a mile away.

Senator PRESSLER. Well, I want to thank all of you for your testimony today. It does add to the record.

We will now hear from another panel who will probably have quite a different point of view on this issue. We want to give equal time to both sides of this question. There aren't two simple sides, because we're trying to work this thing out in such a fashion that nobody is really harmed.

On panel two, we have Mr. Gordon Mikkelson, chairman of the Education Committee, CCBS, from Minneapolis, MN, and Mr. Charles Brogan, director of special projects, KRVN, Lexington, NE, if they would come forward.

CCBS is the Clear Channel Broadcasting Service. We thank you both for being here. Gordon, do you want to be first?

STATEMENT OF GORDON MIKKELSON, CHAIRMAN, EDUCATION COMMITTEE, CCBS, MINNEAPOLIS, MN

Mr. MIKKELSON. I don't know whether you really meant equal time. That would be a long speech by me. I must anticipate, from the order and the testimony I saw on the table of what might be spoken, that this is my one chance. I might be a little disorderly, but I'm trying to be as orderly as I can for you, sir.

We my have prepared testimony. I would make some small corrections in numbers which are in error in that. As I come to them, I'll do it.

It's fun to be here. I was a South Dakotan before most of you. I was with the Associated Bureau in Pierre from 1939 until 1942 when I left here and volunteered for service in World War II.

Ida McNeal was the voice of the west. Is there anyone in the room who remembers Ida? Ida with her radio station at Pierre was doing things that would be illegal now in point to point. She used to talk to her husband on the railroad short-wave, and they made love by radio, and then she established a commercial station. I can remember Ida saying that if so-and-so's listening, please get word to Charlie Blah-Blah because Jane is coming home with her new baby and will be at the Cheyenne River Bridge about 4 o'clock. She got a ride with the Standard Oil truck.

It became legal later to give that telephone service, and I believe it's been an institution for years. It's with some affection and some understanding of the sparsity of population and this real problem of covering vast areas with any communications form that I've looked at this clear channel broadcasting and the daytimer prob-

lem for many years. I've been in radio 27 years now since I left print communications.

The longer hours, of course, that daytimers seek will provide less rather than more service to the public in terms of persons served. Now that's an uncontraverted engineering fact that we have to live with.

The FCC in its action just released used a ratio of about 10 to 1. For every square mile of area served at night by extended hours of daytime, service is destroyed 10 square miles at some distant point.

Now you asked a question whether it hurt anybody in that corner of Hot Springs or that sparse area in southwest South Dakota, and his answer was "No," quite properly. It was hundreds of miles away that the damage was done.

I'm aware of the case of WCCO, 830 kilohertz. When Kennett, MO, got presunrise, the mails did start coming because people were not getting—in the northern three tiers of counties in Iowa—the South St. Paul estimated livestock receipts. We gave a rundown of all the livestock markets in the country. The service was no longer available to them. They didn't know why. They said our signal had failed and asked if something happened to us. Well, it had, but nothing we did and nothing we could do about it. Kennett, MO, came on with presunrise and was able to serve its local community.

One of the things the Commission makes very clear is the special case for presunrise. The station's been off the air at night, and that's when you need the school closing services. They make the real note here of the difference between morning and evening, extended hours before sunrise and after sunset. They are different cases.

And I notice one of the witnesses will say in the next panel the phenomena is the same. But the social effect is very different. That's the reason the Commission permitted the presunrise, recognizing destruction of service and saying the public policy said there was urgency in Kennett, MO—that took care of the farmer in Iowa, and that was done and it's a fact and there's no denying it.

I was in New York City where they were making field intensity measurements of a radio clear channel in confrontation with a daytimer. They quit measuring in New York City at 5 p.m. while the Sun was still around because the skywave from the West was coming in. It's a very real problem. I don't envy engineers their problem of playing Solomon here and sorting out what diurnal curve measurements you will use to insure the tradeoff is reasonable in the interest of the listener.

I'm not concerned with economics here. Many of these points address economics. I'm talking about using a national resource for the people. I swear that if we did the same thing to our air and our land and our water and people could see it happening as we're about to do in destroying this national resource, that spectrum, there would be a massive outcry. Now we did some of those things in ignorance years ago that we recognize now. But we have the intelligence and engineering data now so we don't need to spoil that precious resource. It must be done by experts, not by broad policy statements of legislation.

Well, you know the story of skywave and groundwave. I only facetiously offer this, and I hope my words will show that. The Sena-

tor well knows skywave is important in South Dakota all the way from Minneapolis. Our news director gets your news releases every day. Our groundwave barely reaches into the State. They surely must be sent with the intention to reach South Dakota listeners.

The station manager at Lexington, NE, I visited with gets information for the Senator regularly and his groundwave is nowhere near South Dakota. Only the skywave reaches here.

The phenomena is there. We can't change it, and I plead that we protect this and carefully carefully fit in these requirements for some extended hours.

I have more detail prepared for what we hoped would have been a hearing a year ago on this. It's too late to ask now you consider the details in Minnesota where we're thoroughly familiar with the situation. We did a case study of a daytimer—in fact, the station operated by the president of the Daytimers' Association. We find with extended hours, it could not perform the local services in the hours that you hope this bill would provide.

I offer, if you wish it, with sunset hours, the hours of city council meetings, city elections. It would be off the air, even with your extended hours, before the polls are closed in November, it would be off the air before the results are known. The local results wouldn't be available in those extended hours. I checked with Nobles County, checked on the town board meetings and found a similar situation there.

As for the fact that local people prefer a scratchy signal over nothing—I don't think he has a scratchy signal—but in Nobles County, that's not the situation. Within the claimed contour of that station—I have the data here and I'll be happy to leave it—we find that schools within that coverage area use the service of a distant station 150 miles away. We have letters. In one community, the school principal says he uses it instead of his local stations—it's an unsolicited letter—because the service is more prompt and reliable. There are 40 schools within the claimed service area of this daytime station at Worthington who register with us—I submit their signed statements, their postcards—who regularly count on us at a great distance to provide that closing and opening information.[1] I don't want to go ahead on it, the quality of service, because there has been an improvement there.

The station claims the weather radar has a 70-mile radius. I understand a new set may have that capability. National Weather Service does not permit its own observers to forecast tornadoes and floods without 3 years training and those men are on duty almost continuously.

There are three powerful sets operated by trained meteorologists reaching into that area of proclaimed legal service which give weather radar reports hourly on the weather wire and, of course, flash warnings of any kind. The service is not needed in that case. I would rest with the National Weather Service warning there if I lived there.

Schools are well taken care of now. As for the need for extra hours for the emergency kinds of information, I submit for your consideration, Senator, the EBS plan for the State of South Dakota

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[1] Retained in committee files.

and the contours of those stations which develop that service.[2] It's there with the coverage except for three areas where only skywave could do it. Man hasn't found another way.

Cooperative agreements are necessary, quote. "If the bomb", It can't be handled except by skywave service. You could stay on all night at full power and it won't do it because it results in garbage someplace else and destroys service to 10 times the area that it gives service to. It's a mutually self-destruct situation, to seek this local advantage at the expense of neighbors at a distance.

I plead that this bill be most carefully thought through to give what relief is intended. Find some way, even at the risk of increasing the economic power in the community of a station that already has two licenses, to find some way to give preferential consideration for full-time licensing. Remove some of the obstacles these people now face. With the abundance or apparently a large number of stations about to be granted, you'll find that there's considerable increase in service available in South Dakota.

On a map I'll give you, I plotted those towns which have full-time stations now.[3] There's only one with a daytime only, Redfield. Public officials there count on Aberdeen service. The other communities, I note—and I have maps for you—who either are existing 24-hour allocations, FM service, or the potential for them under Docket 80-90 which will go into effect with adjustments.

I thank you very much. It's been a long speech, and you've been very generous giving us this time.

[The statement follows:]

STATEMENT OF GORDON A. MIKKELSON CLEAR CHANNEL BROADCASTING SERVICE (CCBS)

Thank you, Senator Pressler, for the opportunity to express our views on S. 880. I speak for Clear Channel Broadcasting Service (CCBS), a group of Class I-A radio stations which has been striving for many years to maintain and improve nighttime radio service.

We are assured that detailed engineering statements from CCBS are before you. I have read the testimony of advocates of S. 880 given at the April 3 hearing in Washington which I shall touch on briefly. Responding to the announcement of this hearing, we will analyze the radio service in your state of South Dakota.

Longer hours for daytime stations—as proposed in S. 880—will provide less rather than more service to the public and thus are contrary to long standing and current public policy on fair allocation of radio service. We respectfully urge Congress to continue to delegate the complex problems of nighttime radio service to the FCC, which even now is taking additional action to increase opportunities for extended operations by daytime stations.

The great reach by skywave of even the lowest-powered radio stations is well known. Skywave is a phenomenon of AM propagation that cannot be denied or eliminated. It is there by the laws of physics that no act of Congress can repeal. It is this skywave phenomenon which would cause significant interference to Clear Channel and other fulltime AM radio stations, even during the 2-hour pre-sunrise/post-sunset periods, thereby depriving a great many listeners of radio service on which they depend.

For the record, I offer a simple sketch that shows how the energy—the signal—of any AM station reaches listeners day and night. The Senator is well aware of this, of course, as shown by his use of skywave signals to reach his constituents in South Dakota. The News Director of a nearby Clear Channel station in Minneapolis-St. Paul receives news releases from the Senator daily. There can be no other reason for this mailing other than the Senator expects the information to be broadcast back to his constituents by skywave since the station reaches only a minor slice of

[2] Retained in committee files.
[3] Retained in committee files

eastern South Dakota by groundwave. Similarly, the General Manager of the Class II station in Lexington, Nebraska (KRVN) receives the Senator's newsletter, again most obviously so the contents will be in broadcast to its South Dakota listeners. And that station, too, can reach South Dakotans only by skywave. Whether this is "local" radio service is a matter of the listeners' perceptions. Even though the transmitters may be hundreds of miles away, they send information to South Dakotans that the Senator obviously considers of local interest to them.

South Dakotans already are provided an abundance of fulltime radio service. An accompanying map and tabulation show the wide extent of South Dakota radio service. Data from Broadcasting Yearbook and the South Dakota Broadcasters Association (revised to 3 April 1984) indicate that 26 communities are homes of radio stations. There are 59 fulltime and 15 daytime-only stations in those places. Only one community—Redfield, well served by Aberdeen, has only a daytime station and FCC allocations show the potential for two additional full-time Redfield stations.

The number of stations is, of course, not the subject of the hearing. We are concerned with how well people are served, not with how well broadcasters are served by extended hours. The President of the Daytime Broadcasters Association raised the population per station question in his Washington testimony of April 3. He noted that there are 14 AM stations within the city of Chicago, painting a picture of urban abundance and rural scarcity. With a population of about 3,000,000, Chicago averages one station for each 214,286 persons.

South Dakota's 700,000 residents have 33 AM stations, or one for each 21,212 persons. Under the Chicago ratio, South Dakota would have only 3 AM stations. Thus, such comparisons are irrelevant when used to allege discrimination in radio allocations against small towns.

Engineering evidence is abundant that extended hours for daytime stations would destroy listening for hundreds of thousands more persons that would receive daytimers' signals during extended hours. The question is whether this proposed extension can be arranged to protect those listeners or, as a tradeoff, the loss could be reduced to acceptable levels. A simple chart included here shows how a daytime station could serve only a fraction of its daytime population at night if it were to protect skywave of distant co-channel stations and observe international treaties. As such, Clear Channel and full-time AM stations provide a variety of services to many South Dakotans who live in and travel through rural and remote areas of South Dakota that daytime stations could not serve even with extended hours.

The FCC even now is considering further changes to extend daytime station hours and add more fulltime AM, as well as full-time FM stations. Moreover, it is this expert agency, which Congress created, that should be left the task of analyzing and resolving such complex problems as skywave interference. As demonstrated in Docket No. 82-538, there is ample opportunity for all interested parties to scrutinize and comment upon the Commission's scientific, as well as public interest findings. By permitting the Commission to resolve these issues, we can continue to preserve a percious natural resource—the radio spectrum.

Finally, S. 880 would deny radio service to persons currently without a local service while persons already served by 24-hour stations would get additional service—often from the same proprietor. But ignoring this situation, some relief could be granted daytimers who seek full-time operation by removing the current barrier that requires them to show that they would provide a first or second service. Daytimers also could be granted a preference in applying for properly-allocated 24-hour stations such as the recent FM assignments made under Docket 80-90. We believe this is a better way to provide local full-time radio service without causing massive interference to Clear Channel and other full-time AM stations.

Thank you.

Senator PRESSLER. Charles.

STATEMENT OF CHARLES BROGAN, DIRECTOR OF SPECIAL PROJECTS, KRVN, LEXINGTON, NE

Mr. BROGAN. It's a pleasure to be here and to see your interest in contrasting viewpoints on this bill. We're coming from a bit of a different orientation than some of the other people here for a couple of reasons.

First of all, because we are a nonprofit corporation. Our owners are approximately 5,000 farmers and ranchers who established the station about 34 years ago because of a feeling on their part that

they could not get adequate weather and market reporting from the commercial stations that existed and, second, because our city of license is Lexington, NE, which is about 6,000 people, and the community we actually serve is much broader than that because we serve the ag community, the agricultural community. Our stockholders come from all 93 counties of Nebraska, and at last count, it was approximately 5,000.

We are here to oppose S. 880 in its present form because of the damage we feel that it could do to our wide area service, and I noted a couple of the people prior to Gordon and myself talked about service to the rural areas. We serve rural areas that are, in some cases, 50 and 75 miles between each town. As you well know, in southwestern and south central South Dakota as well as north central and northwestern Nebraska, we do have a level of service in South Dakota, and I think it's a quite well accepted level of service among the agricultural and agribusiness interests.

We have carried, as we indicate in our prepared testimony which we have submitted, advertising for livestock salebarns in towns like Corsica and Edgemont and Huron and Yankton and Belle Fourche and Philip and Martin and Redfield, and we also carry retail business advertising from a total of 16 different South Dakota counties. Our records exhibited similar results of business in Colorado, Kansas, and Wyoming as well.

The reason that we're a bit different is because the agricultural community is very much the same at the very outer reaches of our signal as it is at the base of our tower. Farming and ranching communities rely on market reports and weather reports from, in some cases, only one station.

We've given you an example also, in the testimony, of the type of person that I'm talking about that relies on our service, and when I say rely, I really mean rely. We are not in an area where 10 or 20 or even 5 different radio signals can be listened to. A letter from Mrs. Donald McIntosh of Whitman, NE—Whitman is in the north central part of the State, and I'll quote just in part from this letter. She says:

> We listen to your station most of the time. We do have problems getting anyone else in this area due to the hills and the static so at times, we are almost forced to listen if you have anything on the air at all.

While it's quite nice to have a captive audience, we have to look at the reality, and that is that we are the only radio station that many people can get and there is a very great danger with the increased noise level and the addition of more stations on the air that that signal could be destroyed in the areas during these transitional hours if S. 880 is to become low in its present form.

Some of the people in these areas of north central and northwestern Nebraska and south central and southwestern South Dakota are as many as 50 or 100 miles away from their closest daytime station or their closest any station. We do not reach them with the groundwave. Nobody is going to reach them with a groundwave because nobody is going to put a radio station in Whitman, NE, or Ashby, NE, or Ellsworth, NE.

It is because of this that we object to S. 880, because it ignores the needs of farmers and ranchers in remote areas that are really

truly remote areas, where people drive 20 or 30 miles to get groceries, where their children ride a schoolbus for 50 miles to get to school in the morning. The 2 hours before sunrise are the time in which farm markets and weather reports are critically important to the farmer's and the rancher's plan for the day, and the 2 hours after sunset, as have been demonstrated by a number of people already, are potentially some of the most disastrous for the summer storms.

We are not opposed to local broadcasters increasing their service in local communities where that is possible and fair. We do not agree that S. 880 in its present form is the right way to proceed. We do support the concept of allowing daytimers to apply for FM authority without the diversification advantage.

We supported the concept of more FM stations as proposed in 80–90, and we support the recent extended hours decision, and we consider these three steps to be much better ways to proceed than the provisions of S. 880 with full-time or full power during the transitional hours as it requests, and I thank you for this opportunity to speak on the matter.

[The statement follows:]

STATEMENT OF CHARLES BROGAN, DIRECTOR OF SPECIAL PROJECTS, KRVN, LEXINGTON, NE

Senator Pressler and Members of the Committee, I am Charles Brogan, Director of Special Projects for KRVN Radio, Lexington, Nebraska. We appreciate the opportunity to express our views on Senate Bill 880, and your interest in listening to a wide variety of testimony.

KRVN is a Class Two Station, operating at 880 on the AM dial with 50,000 watts of power full-time. We broadcast a non-directional daytime signal, and use a directional west pattern at night. Our listenable service area covers most of Nebraska and parts of South Dakota, Wyoming, Colorado, Kansas, and Iowa during the daytime. At night, we cover most of the Western Half of the United States.

KRVN is owned and operated by the Nebraska Rural Radio Association, a nonprofit corporation with over 4,000 farmers and ranchers as its sole stockholder/members. It was formed because of a desire on the part of those farmers and ranchers to receive reliable farm-market and weather programs they weren't receiving from regular commercial stations. It has remained with a format of Farm Service since it went on the air in 1951.

We are here to oppose Senate Bill 880 becasue of the damage it could do to our wide area service, and that of other regional Stations. KRVN is a non profit corporation. The station operates with service as its primary motive, not profit. this service orientation has allowed KRVN to become accepted over a wide area, and to provide a level of agricultural service that few, if any, smaller stations are able to duplicate.

South Dakota farmers and ranchers are among those who listen to KRVN, and depend on its service. South Dakota businessmen are among those who use KRVN to advertise to the farm market. Over recent years we have consistently carried advertising for retail businesses in sixteen different South Dakota counties. We have regularly carried advertising messages for livestock sale barns in Corsica, Edgemont, Huron, Presho, Yankton, Belle Fourche, Philip, St. Onge, Highmore, Martin, Redfield, and Fort Pierre. These advertisers are businessmen, and are not likely to spend money annually on radio advertising unless it reaches their market. It demonstrates that KRVN provides a service to rural South Dakota. The provisions of Senate Bill 880 could do significant damage to KRVN's agricultural service, without giving local daytimers the capability to replace it.

In other words, KRVN is a unique agricultural marketplace made possible by regional broadcasting. It could be denied to farmers, ranchers, and agribusinesses during the critical hours if S–880 becomes law in its present form.

The daytime broadcasters have PAINTED themselves as an oppressed group, striving only to serve their communities. We agree with the goal of good local service by local broadcasters . . . where that is feasible and fair. We disagree with the

concept of taking away critical hour coverage from others to accomplish that objective. I'd like to quote from a letter our station received from a listener who would not, and could not be served any better after the passage of Senate Bill 880. Mrs. Donald Macintosh of Whitman, Nebraska, wrote the following:

"We listen to your station most of the time. We do have problems getting anyone else in this area, due to the hills and the static, so at times we are almost forced to listen if you have anything on the air at all. We are also one of the very few that do not have TV, and cannot get much FM, much to our regret."

Mrs. Macintosh is just one of many people KRVN serves in the Sandhills and Grassland areas of Northern Nebraska and Southern South Dakota. Some of these people are as far as 50 to 100 miles away from the closest daytime station. Many rely on KRVN for their only listenable radio rception. Many would be in danger of losing their critical hour reception, without gaining additional service, were 880 to pass and become law.

We object to Senate Bill 880 because it ignores the needs of farmers and ranchers in remote areas. The two hours before sunrise are the times in which farm markets and weather reports are critically important to the farmer or rancher's plan for the day, and the two hours after sunset are potentially some of the most disastrous for summer storms.

We repeat: We are not opposed to local broadcasters increasing service to their local communities, but we do not agree that Senate Bill 880 is the right way to proceed. We support the concept of allowing daytimers to apply for new FM authority without the diversification disadvantage. We support the concept of more FM stations as proposed in Docket No. 80-90. We support the FCC's recent extended hours decision. We consider these three steps to be the best solution for both sides.

EXHIBIT 1

KRVN RADIO FARM PROGRAMS

Mon-Fri, 5:45-5:49 AM—Farm Commentary, Rich Hawkins/KRVN; Farm and ranch information interpreted for consumers.

Mon-Sat, 6:10-6:15 AM—Farm News, Jerry Bennett/KRVN; National and regional news concerning agriculture.

Mon-Fri, 6:15-6:20 AM—Mkt Summary and Estimated Receipts, Don Helmsberger/USDA; Early estimated livestock receipts, yesterday's prices, meat trade, etc. Live from Omaha.

Saturday, 6:15-6:20 AM—National Cattlemen's Association, Various spokesmen; Weekly summary of feeder and feedlot cattle marketings.

Mon-Sat, 6:25-6:30 AM—Farm Calendar, Jerry Bennett/KRVN; Coming events of interest for farm and ranch people.

Mon-Sat, 6:38-6:45 AM—KRVN Auction Time, Jerry Bennett/KRVN; Designed for sale barns, purebred, farm and rural real estate.

Mon-Sat, 7:15-7:20 AM—Farm News, Rich Hawkins and Jerry Bennett/KRVN; National and regional farm news and analysis by Rich and Jerry.

Mon-Fri, 7:20-7:25 AM—Estimated Livestock Receipts, Don Helmsberger/USDA; Estimated livestock receipts from major markets. Live from Omaha.

Saturday, 7:20-7:25 AM—Weekly Livestock and Grain Review, Dr. Al Wellman, U. of N. Ag. Institute Market Economist; Review of the week's trading activity in livestock and grain.

Mon-Fri, 9:10-9:15 AM—Opening Cattle Future Flash, Gary Anderson/Peavey Commodities; Opening cattle futures, prices, and commentary. Live from Kearney.

Mon-Fri, 9:20-9:25 AM—Hog Flash, Sherry Gmeiner/USDA; Market and state/federal market reports live from Omaha.

Mon-Fri, 9:38-9:46 AM—Opening Grain Market, Frank McDowell/Far-Mar-Co Grain Market Specialist; Opening grain market quotations and commentary live from Omaha.

Mon-Fri, 9:55-9:55 AM—Marketing Alternatives, Ken Anderson/KRVN, Steve Brodine/Dean Witter Reynolds; Discussion of futures markets, price trends, hedging, forward contracts, and other farm and ranch management tools. Live from Kearney.

Mon-Fri, 9:55-9:57 AM—Cattle and Hog Flash, Shirley Carnazzo/USDA; Market and state/federal market reports live from Omaha.

Saturday, 10:20-10:25 AM—Soil Conservation, Various Soil Conservationists; Tips on soil conservation practices.

Mon-Fri, 10:30-10:37AM—Western Feedlot, Ellen Shrum/KRVN & Ken Gladney, Ray Leach/USDA; USDA Western Nebraska & Wyoming feedlot report, live from Torrington, Wyoming; opening Omaha livestock & Dow Jones Averages.

Mon-Fri, 11:03-11:05AM—Livestock Futures & Ag Weather, Barb Hyslop/KRVN & Dean/Witter/Reynolds Brokers; A mid-session update on futures prices for livestock. Live from Lincoln.

Mon-Fri, 11:20-11:30AM—Lexington Livestock Report; A complete discription of livestock sold that morning at the busiest Sale Barn in Central Nebraska. Tops and trends reported live from the Sale Ring by Auctioneer Sam Tepley.

Mon-Fri, 11:30-11:35AM—Mid-Morning Grain Market Reports; Frank McDowell/Far-Mar-Co Grain Market Specialist; Mid-morning grain market quotations & commentary live from the Omaha Grain Exchange Building. Also livestock futures update.

Mon-Sat, 11:38-11:44AM—KRVN Auction Time, Ken Anderson/KRVN; Designed for sale barns, purebred, farm & rural real estate, and all other auction sales.

Mon-Sat, 11:45-11:50AM—Farm News & Farm Calendar; Ken Anderson/KRVN; National & regional news concerning agriculture & upcoming events of interest for farm & ranch people.

Mon-Sat, 11:50-11:52AM—Good News in Agriculture; Marsha Bauer/KRVN; A positive development in Agricultural News highlighted at the conclusion of the Farm News.

Mon-Fri, 12:20-12:25PM—USDA Market Report, Virg Mulligan/USDA; Summary of livestock trade at major terminals, live from Omaha.

Mon-Sat, 12:35-12:45PM—Inside Agriculture; Rich Hawkins/KRVN; In-depth features regarding all phases of agriculture.

Mon-Fri, 12:50-12:55PM—Omaha Livestock Market, Tom Scott/Foundation Manager; Omaha Livestock numbers, trends, & prices live from the Livestock Foundation in Omaha. Also livestock futures update.

Mon-Fri, 1:15-1:20PM—Closing Grain Market Reports, Frank McDowell/Far-Margo Grain Market Specialist; Closing grain market quotations & commentary live from the Omaha Grain Exchange Building. Also livestock futures update.

Mon-Fri, 1:25-1:30PM—Closing Chicago Mercantile Report, Gary Myers/Broker; Closing quotations from Dean/Witter/Reynolds, Brokers, in Lincoln.

Mon-Sat, 1:38-1:45PM—KRVN Auction Time, Ken Anderson/KRVN; Designed for sale barns, purebred, farm & rural real estate, and all other auction sales.

Mon-Fri, 2:05-2:07PM—USDA Crop & Livestock Report Bulletin, Gary Anderson/Peavey Commodities; Live Bulletins on USDA crop & livestock report with analysis as they're available. From Kearney.

Mon-Fri, 3:05-3:08PM—USDA Crop & Livestock Reports, Jack Aschwege/Director; Live from the Nebraska Crop & Livestock Reporting Service in Lincoln, as they're available.

Wednesday 3:05-3:10PM—Hay Market Report, Don Smith/USDA; Live from USDA Market News Office in Des Moines, Iowa, giving current prices, trends, & availability of hay and alfalfa.

Mon-Fri, 3:05-3:09PM—Spotlight on Agriculture, Craig Derscheid, Stan Haas/U of N; Reports from Ag Institute Research & Extension specialists in Lincoln, North Platte, and Scottsbluff.

Mon-Fri, 3:15-3:20PM—USDA Carlot Meat, Virg Mulligan/USDA; Chicago & Midwest meat trade & eastern Nebraska feedlot report; also West Nebraska & Wyoming feedlot & range sales on Tuesday & Friday.

Mon-Fri, 3:20-3:22PM—Kansas Feedlot Report, Gary Mills/USDA; Live from the USDA Market News Office in Dodge City.

Mon-Fri, 3:25-3:28PM—Closing Commodities, Heinold Commodities; Chicago grain & livestock futures live from Norfolk.

Mon-Fri, 3:28-3:30PM—Cash Soybean Report, Nebraska Soybean Assn.; Selected Cash price closings from elevators throughout Nebraska's Soybean Producing area.

Mon-Sat, 6:15-6:20PM—Farm News, Ken Anderson/KRVN; National & regional news concerning agriculture.

Mon-Sat, 6:25-6:30PM—Farm Calendar, Ken Anderson/KRVN; Upcoming events of interest for farm & ranch people.

Mon-Sat, 6:38-6:45PM—KRVN Auction Time; Designed for sale barns, purebred, farm & rural real estate, and all other auction sales.

Mon-Fri, 6:45-6:50PM—USDA Carlot Meat Trade, Virg Mulligan/USDA; Repeat of Chicago & Midwest meat trade & Eastern Nebraska feedlot report; also West Nebraska & Wyoming feedlot & range sales on Tuesday & Friday.

Mon-Fri, 6:55-6:58PM—Closing Commodities, Heinold Commodities; Chicago grain & livestock futures.

Mon-Fri, 9:45-9:50PM—Farm Commentary Rich Hawkins/KRVN; Farm & ranch information interpreted for consumers.

Mon-Sun, Various—AG Weather; Meteorologist Barb Hyslop forecasts weather in terms of how it will affect crops and livestock. Irrigation weather in season, with technical information for irrigation scheduling. Over 300 weather reports each week.

Mon-Sun, Various—Farm & Commodity Organization Reports; Reports from all major farm organizations in Nebraska as a service of KRVN for the groups to discuss their organizations' projects, problems, ideas, news, etc.

EXHIBIT 2

COUNTIES OF SOUTH DAKOTA FROM WHICH KRVN HAS RECEIVED ADVERTISING ORDERS

Yankton, Bon Homme, Charles Mix, Trip, Bennett, Lawrence, Haaxton, Lymon, Sully, Miner, Hyde, Faulk, Brown, Todd, Shannon, and Douglas.

EXHIBIT 3

LIVESTOCK SALE BARNS IN SOUTH DAKOTA THAT HAVE USED KRVN TO ADVERTISE

Corsica, Corsica Livestock Auction;
Highmore, Highmore Livestock Exchange;
Martin, Martin Livestock Company;
Redfield, Redfield Livestock Auction;
St. Onge, Madden Livestock Market;
Philip, Philip Livestock Auction;
Presho, Presho Livestock Auction;
Fort Pierre, Fort Pierre Livestock Auction;
Edgemont, Edgemont Livestock Market;
Huron, Magness Livestock;
Yankton, Stockman's Auction;
Belle Fourche, Belle Fourche Livestock.

EXHIBIT 4

SOUTH DAKOTA RELIGIOUS ORGANIZATIONS WHICH PURCHASE TIME ON KRVN TO AIR THEIR PROGRAMS

(1) Decision Time Ministries, Hot Springs; (2) Hour of Hope Ministries, Sioux Falls.

Senator PRESSLER. Thank you. I think we do need to wrestle around with some of these things. First of all, I'm not saying that the clear channels don't provide a great service. They do. We're talking just about the transitional hours now in this bill. We're not talking about all nighttime hours. A lot of times, when a big clear channel is serving an area, they say they are providing local information and so forth.

Now I noticed—and this has to be taken in the same humorous vein you mentioned—that you get my news releases from my office.

Mr. MIKKELSON. I wouldn't know how many we used as news releases because I won't speak for our news director. But I'll tell you our general policy in a news bureau our size, sir, is they judge things on their merit and the flow of the news. A news release most often is used as the tip or a source of a viewpoint, speaking as a lead.

Senator PRESSLER. And, for example, you say there are 200 daily announcements. How many of those are from South Dakota?

Mr. MIKKELSON. I'd have no way. I would think they would be relatively small in that kind of information we would think of as being rather local. A Brookings station—unless there would be [applause] the applause would indicate some misunderstanding of the

position of the clear channels on this point. We have always favored strengthening local radio service, always, and we have stood behind with engineering studies at considerable expense to help see how it could be done, sir.

When we say that a notice of a church meeting at Brookings, SD, is a local event, we mean that, and there is, by the maps here, adequate communication to the people within that local community.

That's exactly what the Commission had in mind. It would be wasteful to ask 2 million people to listen to the Lutheran Church meeting. That is not what radio is designed to do at all, but staff [of a distant station] that could cover the story in Brookings and other places of major agricultural developments, yes, far beyond the capacity of the local community to be concerned.

That's a different kind of service when you speak of that, sir.

Senator PRESSLER. But that's what we're talking about, I think, and I don't mean to go around in circles here, and I don't think that you are obligated to play any politician's news releases. I don't mean to say that. I'm not putting on any pressure about that, but there are losts of individuals who may send releases about community news. It may be significant news about a river or a lake at flooding stage or it may be a news story about this or that.

We have done some informal surveys about South Dakota stories of significance, announcements of community events and they have not been used, unless we've missed them.

Senator PRESSLER. Now, Mr. Brogan, you say that S. 880 would eliminate the critical hour coverage of your station. What do you mean by the critical hours? Are these the 2 transition hours before and after sunset? How will S. 880 eliminate that coverage since the reception is less reliable during those hours?

Mr. BROGAN. Our groundwave signal, like anybody else's groundwave signal, goes 40, 50, in some cases, 60 miles from our tower where there is good soil conductivity. To the north and northwest, we have quite sandy ground and it is much shorter than that. In some cases it only extends 10 or 15 miles outside of our community of license.

If our skywave service were to be eliminated and if the U.S. Government were to make a formal policy saying skywave isn't all that important as it appears to be, moving forward in this, basically that's all the farther eventually we could consider our service area to be, and demonstrated by the fact that we have several thousand members who are in a much greater distance from that who do rely on our service and tell us they rely on our service, we'd be quite concerned that our service to them in those 4 hours out of each day might be in some jeopardy.

Senator PRESSLER. If you want to comment later or in writing, we will leave the record open. We thank you, because you both have traveled a distance, and we appreciate very much your being here.

We'll now call on panel three consisting of Mr. Steve Kaiser, chairman and sales manager from Redfield, Verl Thomson, executive director, South Dakota Broadcasters Association from Sioux Falls, Jim Wychor, chairman, Daytime Broadcasters Association from Worthington, MN, Greg Skall from Blum and Nash, Washington, DC, and LaVerne Hartman, Nobles County Civil Defense, Worthington, MN.

Jim Wychor may want to say something in response to your fellow Minnesotans. Also, let me say that your station is listened to in South Dakota by my mother, who likes your Kitchen Klatter program. We do appreciate all of you coming here today.

STATEMENT OF JIM WYCHOR, CHAIRMAN, DAYTIME BROADCASTERS ASSOCIATION

Mr. WYCHOR. Thank you very much, Senator, and we appreciate the opportunity to appear again before this committee and we thank you for the good work you're doing. I have some prepared remarks which I'll summarize, but I want to take the opportunity to talk about localism in the media.

I would point out, sir, that the two television stations that were here covering this hearing are both headquartered in Sioux Falls. They provide television service for most of South Dakota, a good part of southwestern Minnesota, a good part of northwestern Iowa, but they left as soon as the South Dakotans' panel left.

Senator PRESSLER. I can't control the media.

Mr. WYCHOR. I understand that. The point I'm making is localism. The television stations also are interested in localism, although they cover a vast area, a point you were making with one of the previous testifiers.

Senator PRESSLER. I think that's a good point.

Mr. WYCHOR. I have a couple points about previous testimony, if I might. I would point out that in an effort to provide service to southwestern Minnesota and northwestern Iowa, we built an FM station in 1961 and totally supported it with our AM revenues for many, many, many years and are actually pioneers in FM, and our FM station was on the air several years prior to the big stick in Minneapolis building their current FM station.

I would point out that in Mr. Mikkelson's testimony, he talks about—he takes from April 3 out of context. When I referred to 14 AM stations in Chicago, in the Greater Chicago area, there's over 100. I was talking about the 14 stations licensed in the corporate city limits of Chicago.

Then, briefly, Mr. Brogan's testimony, from Lexington, NE, on, he mentions all of the livestock auction markets that advertise on his station. He says: These advertisers are businessmen, and are not likely to spend money annually on radio advertising unless it reaches their market.

I submit, Senator, that 8 of those 11 sales barns also advertise on our radio station, and they're trying to reach my market, not their market. That's what they're doing.

As for the radar, Senator, Mr. Mikkelson is correct. There are three National Weather Service radar operations, Minneapolis, Huron, SD, and Des Moines, IA, that do reach the Worthington area, and the only thing they can see down there is 50,000 feet in the air so they'd better be very high, very big thunderheads.

The reason we put in the radar set is because of tornadoes. We are the primary emergency broadcast system station for nine southwestern Minnesota counties, and in providing that service, we're the first people to know about severe weather and bad storms, and when we get the word 20 minutes after a severe storm

has hit a community, it's too late. So we made the expenditure and ended up doing that.

Briefly then to my prepared testimony, as I said on April 3 in Washington, that the Daytime Broadcasters Association represents the interests of 2,400 daytime-only stations, and in our comments we filed with the FCC, in our petition for reconsideration in the recent docket, we asked the Commission to grant post-sunset operating powers for daytimers on class III regional channels at the same power level. They currently have presunrise which, in most cases, is 500 watts.

This past Wednesday, April 11, the Commission granted a slight increase to these stations, allowing them to increase their post-sunset power based on the diurnal curve and 30 minutes past sunset rather than 2 hours past sunset as was granted September 9, 1983.

They also stipulated a minimum power of 100 watts until 6 p.m. and we applaud that. We see the Commission moving in the right direction, and we see the Commission accepting many of our arguments.

On January 5 of this year, two other gentlemen and myself met with Wilson LaFollette of the Policy and Rules Division of the FCC. On that occasion, we asked him if there had ever been a documented complaint of interference to a full-time AM station from a daytimer as a result of presunrise operation. His answer was no when asked three times during that meeting. They had no documented complaint ever.

We know that if our request to allow daytimers full use of transitional periods were granted, there would be no economic or actual service damage to any full-time stations, regionals or clears, of any magnitude.

The Commission on April 11 had a perfect opportunity, we feel, to strike a blow for regulatory freedom for 46 million unserted or underserved Americans, but they didn't do so. We had hoped that they would grant the same power postsunset as they did presunrise, because while we can't alter the law of physics, we can ask that the law of physics be used to serve the citizens of this country rather than the citizens serving the law of physics.

I would call the Senator's attention and the committee's attention to testimony entered into the record on April 3 by Ray Livesay concerning surveys done by the FCC and contracted with the ARB. I would point out that in that survey—and I attached it to my testimony here—the specifics on WCCO which Mr. Mikkelson represents and I'd take a closer look at that.

According to the Arbitron, there were mentions of listening to WCCO in 40 counties in 15 States outside of their home market. In those 40 counties, there were 8,151 diaries. WCCO was mentioned as being listened to occasionally; that is, sometime during the 24-hour day and the survey did not cover the transitional period, but 24 hours of the day. There were 77 mentions in those 8,151 diaries. That's 0.945 percent, less than 1 percent.

Now what we're talking about is service, service area, not signal area, service area. S. 880 does not propose to harm WCCO or any other full-time stations, full nighttime service area. We're talking about a transitional period, 2 hours before sunrise till sunrise, from

sunset until 2 hours after sunset. We ask that that time be designated as time when local people can expect service from their local AM radio stations.

The Daytime Broadcasters Association represents the interests of these stations that are serving those 46 million Americans during the day. We would like to do it at night. Now, for many years, most of these stations have been allowed to begin broadcasting at reduced power at 6 a.m. local time, and the point we're really trying to make through all of this is that the atmospheric conditions that exist at 6 a.m., local time, in December are virtually identical, in fact, less volatile, in the evening than in the morning as far as laws of physics are concerned.

We had testimony entered from Dr. Jackson on April 3 indicating that the diurnal curve is less volatile in the evening than in the morning, so, actually, the station should be operating with more power in the evening than they do in the morning.

Briefly, the one problem with the Commission's action this past Wednesday, daytime stations—many class III daytime stations are going to have to be prepared to operate with four different power levels. They will have a presunrise power level of 500 watts. Many of them then have a full daytime power level of either 1,000, 2,500, 5,000, 20,000, 25,000, and, yes, some 50,000 watts during the day and then a pre-post-sunset power of 100 watts and then a post-sunset power or a post-post-sunset power of something less than that, so these daytime stations are going to have to make a big economic investment to utilize those power levels.

Senator, to build an AM daytime station costs just as much as it costs to build a full-time station, and we have a tremendous natural resource going unused at some critical hours of the day when people need and want service.

And I would point out also briefly that in the ARB survey that I mentioned many of the counties utilized in the 77 are within WCCO's one-half mill groundwave coverage, in fact, one of them is Nobles County, MN; 11 of the 77 came from there, and, again, I would repeat they're one whale of a radio station. They do a good job and I wish I had the opportunity to operate it.

Thank you very much for the opportunity and your support.

[The statement follows:]

STATEMENT OF JAMES J. WYCHOR, PRESIDENT, DAYTIME BROADCASTERS ASSOCIATION

Mr. Chairman, after appearing before the sub-committee at the hearing in Washington, D.C., April 3rd, I and hundreds of other Daytime operators were hopeful that the Federal Communications Commission would take off the blinders and recognize that the atmospheric conditions that exist at two hours after sunset are virtually identical to those that exist at two hours before sunrise.

Senator Pressler, in our supplemental comments filed with the FCC in our petition for reconsideration in FCC docket 82-538, we asked the commission to grant post sunset operating powers for daytimers on Class III regional channels at the same power level they currently have for pre-sunrise, which in most cases is 500 watts. This past Wednesday, April 11, the Commission granted a slight increase to those stations, allowing them to increase their post sunset power based on the diurnal curve at thirty minutes past sunset rather than two hours past sunset as was granted September 9, 1983. They also stipulated a minimum power of 100 watts until 6:00 p.m.

On January 5th of this year, three representatives of the DBA met with Wilson LaFollette of the Policy and Rules Division of the FCC. Three different times on that occasion we asked if there had ever been a documented complaint of interfer-

ence to any fulltime AM station from a daytimer as a result of pre-sunrise operation. His answer was no.

We know that if our request to allow daytimers full use of the transitional period were granted, there would be no economic or actual service damage to any fulltime stations, regionals or clears.

The Commission on April 11 had a perfect opportunity to strike a blow for regulatory freedom for 46 million unserved or underserved Americans, but they failed to do so. It is obvious that the Congress is going to have to act on this matter.

And, of course, the way for Congress to act is to pass this bill S. 880. I would like to call the committees attention again to the testimony of Ray Livesay of Mattoon, IL, past president of the DBA. Mr. Livesay presented a very detailed study of an Arbitron Study paid for by the FCC. This study was done to take a close look at the listening to the Class 1A clear channel stations in the so called white area outside their "home market". I would like to take a closer look at the report as it pertains to WCCO, the only Class 1A clear channel in Minnesota or both Dakotas.

According to the ARB, there were mentions of listening to WCCO in forty counties in fifteen states outside of the home market. In these forty counties there were 8,151 diaries. WCCO was mentioned as being listened to occasionlly, that is sometime during the 24 hour day, in only 77 of those 8,151 diaries. I should also point out that many of the counties counted as white area are claimed to be the home market of what is called by WCCO announcers and sales people, WCCO-LAND.

Seventy-seven out of 8,151 is .945 percent less than one percent. Mr. Chairman, what we are talking about is service. S. 880 does not propose to harm WCCO or any other fulltime stations full night-time service area. We are simply asking that the transitional period from two hours before sunrise till sunrise and from sunset until two hours after sunset be designated as that time when local people can expect service from their local AM radio stations.

The Daytime Broadcasters Association represents the interests of the nearly 2,400 daytime only AM radio stations in the United States. U.S. AM stations operate under technical regulations that have remained basically unchanged since the mid 30's. While the number of AM stations has increased enormously, in 1946 there were 52 daytime only AM stations—today, there are nearly 2,400. These 2,400 stations provide local radio service to over 46 million Americans.

For many years, most of these daytime stations have been allowed to begin broadcasting at reduced power at 6:00 a.m. local time. During the winter months, 6:00 a.m. is two hours before sunrise for a good deal of time. This is prima facie evidence that pre-sunrise and post sunset operations of daytime stations does not interfere with the service area of the fulltime regional and clear channel stations, and taking into account that the atmospheric conditions as it affects the transmission of AM radio signals are substantially the same for the two hours after sunset and the two hours before sunrise, the public interest would be much better served by allowing the use of these "transitional" periods of daytimers for local broadcasts of news, weather information, entertainment and sports.

Under the Commission's ruling of this past Wednesday, April 11, many daytime stations will have to be prepared to operate with four (4) different power levels. Most Class III's will have a pre-sunrise power of 500 watts, with their full daytime power of 500; 1,000; 2,500; 5,000; 10,000; 25,000; or 50,000 watts, pre-post sunset power until 6 p.m. of 100 watts minimum, and then their post sunset power which will usually be considerably less than 100 watts.

In the April 11 decision, the FCC did not do any substantive for daytimers on Class 1B clear channels and they did nothing at all for daytimers on Class 1A clear channels.

The Commission and its engineers who apparently are marinated in 50 years of antiquated engineering, simply will not recognize the obvious. That being, that if no harm is done at 6 a.m. in the morning, none will be done at 6 p.m. in the evening. Atmospheric conditions are virtually the same.

Senator Pressler, I think it would be interesting to ask the fulltime stations here a simple question. If they had to make a choice, which time period would they not use? The two hours before sunrise? Or the two hours after sunset? Which are the most valuable? You and I both know the answer is before sunrise, which means they are not being harmed signal wise or economically by pre sunrise operation of daytimers. They likewise would not be harmed by post sunset operation.

Now, to the fact that daytime stations can come back on the air in case of emergency. When we shut down and are gone home and a tornado has already killed dozens of people as they did in the Carolinas a few weeks ago, it is a little late. Most of these types of storms hit in the later afternoon and early evening hours. Those period close to and shortly after sunset.

There are 1,532 communities in the country with radio stations licensed to them that have no local night time AM service. 642 of these communities have no local night time radio service of any kind.

Many surveys have shown that a vast majority of the residents of these smaller towns and cities would rather listen to a scratchy local or regional radio signal than a distant skywave signal that does not provide them with the information they desire about their area.

Also, even a cursory examination of the early evening programming (until 9 or 10 p.m. local time) of the clear channel stations' programming will show that these stations are not programming for their supposed skywave audience, but rather for their greater metro listening area.

S880 does not propose to disturb the extremely large groundwave coverage of the fulltime stations. It simply instructs the Federal Communications Commission to recognize the reality of the fact that the AM allocation rules being followed these many years are simply outdated and obsolete. Rules that were adopted before the advent of FM radio, television, cable television, or satellites should no longer be used to deprive 46 million Americans of their right to local AM radio broadcasts during early morning and early evening hours. These rules and regulations were adopted before most of the rural residents of this country had electricity, telephones, flush toilets or running water or bathtubs. It is time the FCC cease discriminating against the 46 million Americans who choose to live in small cities and rural areas on the basis of antiquated regulations and allow the daytimers of the country to provide local AM broadcasts during the "transitional" skywave period beginning two hours before sunrise and ending two hours after sunset local time.

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MINNEAPOLIS-ST. PAUL TOTAL SURVEY AREA

WCCO
MINNEAPOLIS, MN

County	State	In-tab	Mention WCCO
Mc Lean	Illinois	542	1
Winnebago	do	397	1
Allen	Indiana	470	1
St. Joseph	do	414	2
Adams	Iowa	7	1
Allamakee	do	24	1
Black Hawk	do	544	2
Cerro Gordo	do	67	2
Emmet	do	13	1
Fayette	do	26	1
Marshall	do	23	2
Woodbury	do	60	2
Worth	do	14	1
Subtotal		778	13
Shawnee	Kansas	274	1
Baltimore N-E	Maryland	441	1
Gogebic	Michigan	28	3
Carlton	Minnesota	21	1
Itasca	do	26	3
Nobles	do	28	11
Otter Tail	do	52	5
St. Louis	do	420	10
Traverse	do	7	1
Wadena	do	4	1
Subtotal		558	32
Shelby	Missouri	9	1
Cascade	Montana	476	1
Lancaster	Nebraska	544	2
Cass	North Dakota	278	2
Lorain	Ohio	113	1
Lucas	do	462	1
Montgomery	Pennsylvania	163	1
Brookings	South Dakota	25	1
Codington	do	36	8
Minnehaha	do	475	7
Subtotal		536	16
Ashland	Wisconsin	27	1
Brown	do	487	1
Chippewa	do	39	4
Clark	do	30	2
Eau Claire	do	96	7
La Crosse	do	52	1
Milwaukee N-F	do	887	1
Subtotal		1,618	17
Total		8,151	77
Total number of counties			40
Total number of States			15

Senator PRESSLER. I'm interested in the chart on your last page. I want to figure that out. This is the one that has South Dakota's counties—Brookings, Coddington, and Minnehaha, doesn't it? Now what exactly does that mean?

Mr. WYCHOR. Those are the counties that the diaries were placed in, and that's the number of diaries then in the left-hand column,

and then in the right-hand column, the number of mentions in the diaries.

Senator PRESSLER. So what percentage would South Dakota have of that?

Mr. WYCHOR. I didn't break out South Dakota specifically, but it's 536 diaries out of 8,151 and 16 mentions out of 77.

Senator PRESSLER. So, in other words, what's the point of this for South Dakota? If you were trying to give a South Dakota analysis, what would it be? That there's very few——

Mr. WYCHOR. There are very few people depending on that station for service.

Senator PRESSLER. Is this just the transitional hours we're talking about?

Mr. WYCHOR. This survey covers 24 hours a day, but not during the transitional period because of the nonexistence of skywave service many times, and we reiterate, sir, that S. 880 does not propose to do anything to this service that we're talking about in this area of eastern South Dakota, and I point out that in the case of most of these stations, it would be interesting to take a look at the area that their salesmen go out and sell, and I think that has been entered into the record in the case of this station, the area that they sell and the area that they charge for that they—you know, their rates for covering that area and the maps that they use and the figures they use.

My coverage area and our radio station—the half mill primary coverage area is 87 counties in 4 States during the daytime, but when we go out and take a survey, we survey 7 or 10 counties, and in our case, sir, we would be very happy with the 188 watts we have postsunset, and that does the job for our local area and we're very happy with it.

Senator PRESSLER. Thanks. Verl Thomson? We see you in Washington frequently representing the broadcasters, and we welcome you here.

STATEMENT OF VERL THOMSON, EXECUTIVE DIRECTOR, SOUTH DAKOTA BROADCASTERS ASSOCIATION

Mr. THOMSON. Thank you very kindly.

Senator PRESSLER. You've done a great job.

Mr. THOMSON. Our membership encompasses 98 percent of all the radio stations and 100 percent of the television and public station and television stations in South Dakota. We're pleased to appear to support S. 880 and for good reason.

Someone once said a friend in need is a friend indeed. No truer words could be spoken in referring to the community radio station. It is their day-in and day-out friend. It is at their fingertips with the happenings, both good and bad; what to expect from hour to hour with the changing weather; will a schoolbus run on time; what's the danger on the siren sounds; is someone's pet lost or found. It's the kind of service a friend can offer. A radio friend in too many cases is crippled by losing its voice at a time it is needed. We say needlessly silenced. Today's state of the art and experience shows these communities' voices can extend their friendly service,

and to make that a reality requires only an act of Congress. It is that act, S. 880, that we are urging the Congress to deliver.

Thank you for your attention.

Senator PRESSLER. Thank you very much, and if you have any responses to some of the earlier panels, we'd be glad to put them in the record.

Mr. Steve Kaiser from Redfield gave me my first interview when I first ran for Congress 10 years ago. I was scared to death, still am.

STATEMENT OF STEVE KAISER, CHAIRMAN/SALES MANAGER, KQKD-AM, REDFIELD, SD

Mr. KAISER. I might add you did an excellent job with it. Senator, I'd like to divert just a moment before I start my prepared remarks and just let you know that I find it incredulous that there are broadcasters in—clear channel broadcasters who are still trying to tell this Nation that they serve small towns in South Dakota and elsewhere in the Nation.

Last night, a good example of local broadcasting, I think, was heard in South Dakota on John Goeman's station. When I was driving down here to appear here today, I listened to his FM service. No AM can be on the air of ours at this time of night, and his radio reporters were standing on a dike near Madison, SD, to alert that town so that in case that dike breaks, they would know that the flash flood was on the way. Now I'd like to know how many WCCO reporters were standing on that dike last night.

Senator PRESSLER. Maybe there were some. Steve, I think that's a good point. In all the years that I have been in politics and that you've been the covering reporter, have you ever seen a radio reporter covering a South Dakota event, not necessarily just political events?

Mr. KAISER. You mean from—a clear channel station?

Senator PRESSLER. Yes.

Mr. KAISER. Not that I can recall; no. I can remember a few national press coming in for some of the real major events, but they were generally network stations. Minnesota Public Radio would be the only one that I ever saw in South Dakota.

Well, Senator, I feel very strongly we broadcasters would be better able to serve this Nation's mass communications media and the needs of this nation if this legislation is passed.

I currently own a 500 watt daytime AM station. Due to good ground conductivity, we serve a large area of central and northern South Dakota. Our service area has a diameter of about 100 miles and our station is aimed primarily at serving three counties, Spink, Faulk, and Hand counties. We are the only local radio service that these three communities have. Our competitors are all located in larger nearby communities, the smallest of which is about three times the size of our city of license. All of our competitors aim their programing, for the most part, to a local audience, and we do that also for these three counties. We have developed a loyal following, largely by providing news, weather, sports, farm information. We spend approximately 40 percent of our day on information programming specifically designed with our local listeners in mind.

Our station has been on the air since 1962. In 1966, we were granted the permission to operate before sunrise at our full power of 500 watts.

Our current office and studios are about 2 years old and contain about 2,500 square feet which, for a small community like ours, is really quite large. We've made that investment to expand our facilities to provide the most professional and highest quality radio service that we could afford on the budget we have. We added emergency power at a cost of $4,000 with absolutely no expectation of any economic return by providing that service. Our station takes its obligation to serve the public with quick and accurate information very seriously. We also take price in the fact that we do a good job of providing that information.

Providing the public with accurate and up-to-date weather information is one of the most important services we provide. Not only do we pass along information provided by the National Weather Service, but when severe whether is imminent in our area, it is our standing operating procedure to send a staff member in a car equipped with mobile communications to keep an eye on the direction and nature of severe weather.

Unfortunately, we can't afford weather radar of our own so we go out with the spotters. My partner will take a car and keep an eye on weather and report it back to us as it moves toward our communities. We also listen closely to local emergency channels for information that may be relevant to the public.

In our area, television weather warnings are not as localized since neither of the two stations that serve our area has on air broadcast personnel or equipment to provide that information from their transmitting stations in our area. Currently, I believe all weather forecasting and warnings are broadcast from their Sioux Falls affiliates, some 180 miles from our community, and this, I feel, tends to make the public even more dependent upon local radio stations such as ours for weather information.

I think it comes down to a question of who would you trust. the guy that's in your community or the guy that's sitting in a Sioux Falls television station studio, and I would submit that the people on the scene watching the weather that also have access to the National Weather Service information would be a better source. I would trust them myself long before I would trust somebody in Sioux Falls.

Well, being a daytime station, many times when the public needs it most, we've discontinued broadcasting because of our mandated sunset sign off.

And to make matters worse, our community has only one station on the AM band that I would call a listenable signal at night. All others, the clear channel stations included, are subject to interference that makes listening to them a chore and it really does. Although the area FM stations do provide a good signal in our area, none again are local to our communities, plus the emphasis on them, as is mentioned in earlier testimony, is on music and not on providing information.

At KOKD, it has been our policy to always resume broadcasting at the request of our National Weather Service when a weather warning has been issued. Unfortunately, time is a critical factor

when you're providing these warnings, and it requires that our personnel drive from home, turn on the radio station, broadcast the message, and in the time that process takes, the information at that point could be useless, and, of course, there's the question of who's listening when there was dead air there before. If you've been off the air for an hour or perhaps two or three, your audience obviously has tuned away, generally to television. If we had full-time authority, this problem.

Also our grant for postsunset certainly would be a great help. I was very pleased to see the Commission was moving to grant authority to broadcast 2 hours past sunset. I was, however, quickly tempered when I learned that our grant was for about one-third of our normal operating power, and to me, this makes little sense. We have presunrise authority at 500 watts, but postsunset at 142 watts.

One hundred and forty-two watts after sunset will provide adequate coverage only within a few miles of our station. Our city of license, Redfield, will be provided with adequate coverage but our county which is relatively large, Spink County, over half of it will probably not get adequate nighttime service. None of the other two counties that we serve would get an adequate signal for nighttime service.

It is, however, a step in the right direction, and I'm glad to see that the Commission this week has decided to increase the hours a little bit on channels such as ours. We sincerely appreciate Congress indicating to the Commission that some change was needed. I'm sure that without your help and the rest of the Congress, I doubt very much if the Commission would have moved ahead in this area.

Providing full-time service, I believe, should be the goal of Congress and the Commission on every station that is now limited to power—to sunset signoff.

The nature of radio has changed since the Commission's protection rules were written. It's true in the early days of broadcasting, many people listened extensively to distant stations. That was largely true because there were so few stations at that time to listen to, and at one time, we depended solely on radio for broadcast entertainment. That role now has been largely taken over by television.

Radio is the provider of information, especially local information as well as musical entertainment. Today we have over 9,000 radio stations. Most communities in the Nation that have more than 3,000 people have their own radio station, but, unfortunately, our rules have not kept pace with the change in radio. With this in mind, I feel it unnecessary for us to maintain such stringent rules of protection developed three and four decades ago when radio broadcasting was a much different medium. Today the people of my area, I feel, would dearly love to have my station available full time, if not the proposal that we have before us, and I feel that for the most part they could care less about what the distant stations are offering.

Senator Pressler, anything you and the Commission and Congress can do to expand our services at a reasonable cost would be greatly appreciated by not only the stations, but more importantly,

by our audience, and thank you for what you've done already and for your efforts in this direction.

Senator PRESSLER. Thank you. Last winter there was a blizzard in Minnesota and South Dakota and some people were killed. Of course, this is a matter of nature. Some people have said to me, well, if there's an emergency, the stations can go on the air, but if nobody knows that, nobody will be listening. I think you've said that.

Mr. KAISER. That's very true.

Senator PRESSLER. And also you would have to make a decision to go on the air. You'd have to get your crew there. You'd have to get people to the station. What about that blizzard last winter? Would this have helped any? Of course, I don't want to get into this whole idea of fixing blame and all this but is that an example where there would be more information available more quickly in a local area when you have a blizzard spotter or something of that sort?

Mr. KAISER. Absolutely. There is no question that more people could be warned, I feel, with a local service to what the local weather situation is. You can listen to WCCO a long time before you hear a word about South Dakota's weather situation. I'm not saying it isn't a great station, and if I lived in the Twin Cities, I'd listen to them for all the local information that I got, but I think the nature of the broadcasting, as I said, has changed.

That blizzard last winter—I don't know how many people were killed, but how many lives could we have saved? Maybe we only saved five more because somebody listened to a local radio station broadcast before they left that may not have been available because of our early signoff in the extreme winter months. At 4, I believe some stations in Minnesota are signing off, Jim; am I correct?

Mr. WYCHOR. 4:15 in northern Minnesota.

Mr. KAISER. And they were off the air by the time that some of these warnings were issued.

Senator PRESSLER. At the hearing in Washington, witnesses said, well, there's a provision that allows them to come in, if there's an emergency. How do you respond to that?

Mr. KAISER. That's very true, but who's listening, right?

Mr. WYCHOR. The problem in that blizzard would have been getting to the radio station. You couldn't get across the street, and you had to get there; I think you mentioned it earlier, that you have to staff the station. Someone has to get there. You have to turn it on. The location of these stations are—ours, for instance, is 3 miles out of town. Fortunately we have a employee that lives right next door so we're capable, but you have to get phone call from the weather bureau or whoever the parties are. If the station were on the air, it would be staffed and would be done immediately.

Senator PRESSLER. Next we'll hear from Gregg Skall from the law firm of Blum & Nash.

STATEMENT OF GREGG SKALL, GENERAL COUNSEL, DAYTIME BROADCASTERS ASSOCIATION

Mr. SKALL. As a matter of fact, the law firm's name has recently been changed. It is now Blum, Nash & Railsback. A former Congressman has joined our firm.

I would like to add, if I may, that with respect to your last question, it is not only a question of getting the staff to this station. If people know that there is an emergency and therefore they should listen to the station because of that emergency, in most cases, there would be no need for them to listen to the station. They should know of the emergency if they are listening to the radio station. The idea is to forwarn them of an emergency which is coming and which they do not know of. While the emergency provision sounds quite nice, it is not truly as beneficial as it would seem.

Senator, I do appreciate very much the opportunity to appear here before you, in sort of a semicleanup position, as it were. I think that the role I can best fulfill is to stand back a little bit from the battle and take a look at the forest. I have been in the trenches, looking at trees with the other gentlemen who have testified here before you on behalf of S. 880. I believe strongly in every single thing that they have said.

However, I would like to add a few general comments with respect to the Commission's recent action of April 11, its second order in Docket 82-538. I think it is important to recognize that the changes adopted by the Commission in that docket will indeed permit many daytimers to operate in an expanded capacity and to expand their local service. Perhaps not as much as we would have liked, but, nonetheless, there is expanded service for which we have been fighting and for which we are indeed quite grateful.

I would like to say that the Daytime Broadcasters Association has never really said that we think that local community service in the communities of daytime broadcasting stations is more important than local community service in the communities of other Class III stations or Class II stations or full-time stations. We simply feel that it's important, wherever possible, to provide as much local community service to the daytimers as possible.

We think that we will be able to see just how close the Commission comes to that goal when the powers are issued. But it does seem that they have adopted that principle at least and very definitely the spirit.

Particularly with respect to the regional channels and post-sunset operations on the clear channels, we had hoped that the Commission would recognize the validity of our point. We believe that local service, at least in the transitional period, is preferable to sky wave service. Where there was some question, we hoped the Commission would shift that preference to the daytimer. It does not appear that that was the case. But, again, I would like to say that they made a valiant effort to grant as much power to those daytimers as they felt was possible.

However, they've always fully affirmed their commitment to protection for sky wave service and to the 750-mile radius for clear channel stations that they confirmed several years ago. What has become clear to us is that sky wave service has now, at least in the

Commission's mind, become so accepted as a feature of the U.S. broadcasting system that any further changes here are at the level of national policy. If changes to be addressed, they must be addressed by the Congress. It is not a regulatory decision. It is a question of national policy, and, therefore, it is indeed appropriate, sir, that your committee be the one to address that issue.

I wish that I could say that the Daytime Broadcasters Association was in a position to do more research on the assumptions and conclusions that are contained in the Commission's order, and that have been presented in extensive filings by other associations. I must say, however, that I think our association has stretched the limits of its resources and will probably not be in a position to do any of that additional research. Again I would, at the risk of perhaps being redundant, like to commend the FCC. I do believe they have demonstrated deep concern for the plight of daytime broadcasters and the communities that they serve.

I think, however, it's also time to move on to additional issues that thus far have been relatively ignored or overlooked in the press for expanded hours. Those additional issues have begun to be discussed here in this hearing today.

First and foremost is their change of section 73.37(e) in the Commission's rules. This provision is known in the vernacular, you might know, as the AM freeze. It was adopted by the Commission in 1964 in an attempt to try to preserve AM nighttime spectrum. Essentially, while the rule provisions are detailed somewhat more extensively in my prepared testimony, in summary, it provides that a daytimer can't provide nighttime service. A new AM station can't provide nighttime service either, even though it could engineer that nighttime service in a way that would avoid any objectionable interference to any other AM radio station, unless that service would be a first or second local service to the community served by the licensee. I think that it's important to note that is a slight modification of the definition offered by John Kamp. It does apply not only to new stations but to existing daytimers who, but for this rule, could provide nighttime service to their communities without providing objectionable interference to any other AM station. I think that's a very important point to recall.

As I said, this rule adopted in 1964 may have had a laudable goal at the time it was adopted, but I think it has unquestionably outserved its usefulness and should be abolished.

Initially the rule's purposes were twofold. First, to provide incentive for the exploitation and development of the FM frequency band which in the early 1960's was being largely overlooked by radio broadcasters. Certainly no one can argue today that that goal needs to be further urged and further expanded by the Federal Communications Commission.

Second, the goal of the rule was to reserve the AM nighttime spectrum, taking into consideration sky wave effects for those communities fartherest from the developed areas so that they could have nighttime service if anyone ever wished to build an AM station there. That was 20 years ago, sir.

It is my belief and, I think, logically deduced that if any of those communities had the incentive for building a full-time AM radio station, that in the intervening 20 years—indeed, in the interven-

ing 50 years since AM radio really began to develop—it would have been built.

It is now time to recognize that the legitimate needs of the communities of AM daytime radio stations should be addressed. We should allow those stations now to go full-time where engineering shows they can do so. I urge the committee to please consider that fact.

S. 880 includes another provision which is extremely important to daytimers. It is that a preference should be awarded to daytimers in comparative proceedings before the Commission when the daytimer does apply for a full-time AM or FM license. Currently, a daytimer suffers a disadvantage in a comparative proceeding before the FCC. This disadvantage is imposed in the name of diversity of service to a community, a principle that can hardly be argued with and that we certainly agree with. However, it is not an inflexible principle. It should not be used to prejudice an AM daytimer who has for many, many years served his local community under a severe economic hardship and handicap.

Indeed, perhaps we could learn a lesson from the railroads of the United States who were prevented from taking advantage of new technologies in the transportation industry. As a result of that policy we have lost our railroads to a great extent.

We think that AM daytimers should be permitted, indeed encouraged, to take advantage of the new technologies of the radio industry that are available. Rather than suffer a disincentive or a demerit in a comparative proceeding, daytimes should be given a preference in recognition of their longstanding service and commitment to their local communities.

Sir, that completes the summary of my testimony; I appreciate again the opportunity to be here.

[The statement follows:]

STATEMENT OF GREGG P. SKALL, GENERAL COUNSEL, DAYTIME BROADCASTERS ASSOCIATION

My name is Gregg P. Skall, General Counsel of the Daytime Broadcasters' Association and a partner with the law firm of Blum, Nash and Railsback in Washington, D.C. I appreciate this opportunity to address the Committee on S. 880, the bill to extend the operating hours of Daytimers and enable them to provide additional local service to their communities by increasing their opportunities to obtain full-time radio licenses.

On Wednesday, April 11, 1984, the Federal Communications Commission ("FCC") issued a second order in Docket 82-538, the Commission proceeding considering extended hours of operation for Daytimers. Late last year the Commission adopted rules that expanded opportunities for Daytimers to broadcast for two hours in the morning before sunrise, and that for the first time permitted many Daytimers to operate up to two hours after local sunset at power levels calculated by the Commission. Last Wednesday the Commission modified its earlier order to permit Daytimers to operate postsunset at power levels higher than those originally permitted for a limited period of time after sunset.

The Commission's action last Wednesday will permit the following operations. Daytimers operating on Class III, or regional, channels will be permitted to operate after sunset until 6 p.m. at power levels calculated by the Commission, with a minimum of 100 watts, and beyond 6:00 p.m. for up to two hours after sunset at reduced power levels. Daytimers operating on clear channels may operate for the first hour after sunset at levels higher than those originally set last fall, and for the second hour after sunset with reduced power.

The changes adopted by the Commission in Docket 82-538 will permit many Daytimers to operate with expanded hours and thus will expand local service offered in their communities. The changes implemented by the FCC with respect to the Day-

timers operating on regional channels appears to reflect the trade-offs the Daytimers have sought. As the Commission stated in its opinion released Friday, the changes "balance matters fairly between the needs of the Daytimers for additional power while avoiding excessive interference to the service of fulltime stations."

With respect to the changes it made for Daytimers operating postsunset on clear channels, DBA hoped the Commission would adopt a preference for local service over distant skywave service for just the two-hour transitional periods around sunrise and sunset to enable Daytimers to better serve their local communities. The Commission instead reaffirmed the commitment it made in Docket 20846 to protect the skywave service of the clear channel stations. Given the FCC's commitment to protect the clear channel stations out to their 750 mile radius, it is not surprising that the Commission wasn't able to do more to help the Daytimers.

Although protection for the skywave service of clear channel stations was originally adopted as an FCC rule, I am convinced that over the years the skywave service has become so deeply accepted as a feature of the U.S. broadcasting system, that if any further change is to be made affecting this service, that change must be made by the Congress. Politically, the Commission cannot go further to expand the operating hours of Daytimers at the potential expense of skywave interference.

We appreciate the time and effort the Commission has devoted recently to the Daytimers' plight. The Commission has demonstrated deep concern and appreciation for Daytimers and a sincere effort to do as much as possible to relieve Daytimers' problems, given the difficult constraints under which they must operate.

Nevertheless, two additional changes in the FCC rules that are proposed in S. 880 and that were not addressed in Docket 82-538 will improve the lot of Daytimers and will not affect in any way the current operations of the fulltime AM stations.

First, the Commission should repeal § 73.37(e) of its rules. The FCC currently requires any AM radio broadcaster who proposes fulltime service to meet one of three alternate threshold standards. Subparagraph (i) required that at least 25 percent of the area or population to receive interference-free primary nighttime service did not receive such service from an existing AM station or from an FM station with a signal strength of 1mV/m or greater. Subparagraph (ii) required that the community designated in the application be provided with a first or second aural nighttime service and that no FM channel be available for use in the community. Subparagraph (iii) required that at least 20 percent of the area or population of the designated community receive fewer than two aural services at night and that no FM channel be available for use in the community.

This rule was adopted by the FCC in 1964. It was intended to promote use of the FM spectrum and to channel AM service to unserved and underserved communities, while preventing continued absorption of dwindling AM spectrum for additional stations in communities with more than one radio station. These policies, however, meritorious their origin, are now outdated.

First, FM radio is no longer a new industry requiring assistance from the FCC to spur development of the service and broad public acceptance of the medium. The FM market has grown rapidly since its inception and today is quite competitive with the AM radio market, if not the dominant market force. Thus, no FCC policy is required that favors allocation of FM channels over that of AM channels.

The Commission recently made 600-1000 new FM stations available in Docket 80-90. Numerous opportunities have been presented to enable new broadcasters to enter the radio market, and it is unnecessary to continue reserving AM spectrum to insure such opportunities for new broadcasters.

As well, to the extent the FCC's AM allocation restrictions were intended to channel AM service to unserved or underserved communities, DBA asserts that after eighteen years, the communities that were likely to benefit from this policy already have received first or second AM service. When the allocation standards were adopted in the early 1960's, the Commission estimated that 25 million people did not receive primary nighttime service. More recently it was estimated that the nighttime unserved population is under 4 million. If after eighteen years those unserved areas have not received local service, simple logic suggests that many of them may be too remote and underpopulated to attract and support a local broadcast operation. Thus, it makes no sense to continue restricting the implementation of new nighttime AM services in areas where demand exists and is shown during the day in order to preserve spectrum for areas in which such demand will never exist.

The National Radio Broadcasters Association currently has pending before the Commission a petition for rulemaking to abolish § 73.37(e). The FCC therefore deferred action on this proposal Wednesday, but it is my understanding that this petition will be considered later this year. Moreover, the issues are also raised in Docket No. 84-281 regarding foreign clear channels. Swift action by the Congress, however,

could ameliorate this problem without further time-consuming FCC rulemaking actions.

Second, S. 880 includes a provision that would award preferences to Daytimers in comparative proceedings before the Commission when the Daytimers apply for fulltime AM or FM licenses. These preferences should be adopted.

Currently, daytime broadcasters are actually placed at a disadvantage when they apply for a new fulltime AM or FM license in their community of license. The FCC gives preference to applications who hold no broadcast licenses, in order to promote diversity of broadcast station ownership within a given area. While the Commission's objective is laudable, it should not prejudice the efforts of a daytime broadcaster to obtain a fulltime license. Typically, while operating a radio station at great economic disadvantage for many years, the Daytimer has learned a great deal about local community needs and interests. Thus, the daytimer will be extremely well-qualified to operate a fulltime AM or FM station in the area and should not be placed at a competitive disadvantage in trying to do so. Moreover, the Daytimer should not be denied the right to take advantage of the new radio broadcast technologies that are making many more broadcast licenses available simply because he or she is already serving the community.

A Daytimer seeking an additional broadcasting facility also should not be be required to relinquish his or her restricted daytime license if awarded the new license in order to obtain the preference. Recently the Commission dismissed its proceeding to require the breakup of AM-FM combinations held by licensees in the same community. The Commission has decided this proposal does not merit formal consideration. Thus, Daytimers should not, as a practical matter, be subjected to the rule in order to take advantage of new broadcast opportunities when the objectives of the proposal have not been found to serve the public interest.

Having labored at a significant competitive disadvantage for years, all Daytimers seeking new AM and FM facilities should be entitled to a preference in comparative proceedings. Numerous radio licenses have been or soon will be made available by the FCC. New fulltime Class II AM stations on foreign clear channels will soon be made available in Docket 84-281. And, as noted earlier, new FM licenses will be made available in Docket 80-90. Daytimers seeking an additional broadcast facility should be awarded a preference in comparative proceedings on license applications for such facilities.

Senator PRESSLER. Good. I'll next call on LaVerne Hartman who is with the County Civil Defense in Worthington, MN.

LaVerne.

STATEMENT OF LaVERNE HARTMAN, DIRECTOR, NOBLES COUNTY CIVIL DEFENSE, WORTHINGTON, MN

Mr. HARTMAN. Thank you, Senator.

Before I begin my testimony, permit me to say that I'm probably the only one on the program that neither has an ax to grind, or any personal vendetta, nor have been associated, in the business sense, with any of the news media. However, in the field of preparedness, we appreciate the assistance that is given by the entire news media to us.

Because of Worthington and Nobles County's proximity and location—we are on I-90, Highways 59 and 60, and we are also in what we call the Snow Belt or snow valley part of Minnesota, I have been interviewed by all types of the news media, both radio, TV, newspapers, and from primarily KWOA at Worthington, but from as far away as Los Angeles, CA, Minneapolis TV, Sioux Falls TV, during our blizzard last February 4 during which we probably had 1,000 people stranded in Nobles County and other media sources, so I'm going to speak of our experience in the civil defense portion of this.

I'm also a sky warn instructor, and I spend a couple three nights a week, 4-hour sessions, teaching people in our communities how to identify severe weather, and how to make their reports, and notify

the people in their communities, but what I know about the news media or the news business you can put in a thimble and still have room for your finger.

In due respect to my good friend Gordon Mikkelson, I tried last night again—I can't listen to sporting events which I love dearly, the Twins, and hockey, and this kind of thing, but I tried last night to get WCCO on the radio and, unfortunately, it stayed in about 3 minutes and it faded away, and we're about 150 road-miles from the Twin Cities, and this is true of all or most all of our people in the communities. They just can't listen to those activities which they like to hear.

However, Gordon, when I'm in the Twin Cities, that's the station that I listen to, so I'm with you, Gordon. Gordon and I have been associated in civil defense for 15-plus years so we're old friends.

As for my testimony, it's pretty well printed and I will just highlight a few things. We have an emergency operating capability in the courthouse at Worthington, and I have many times gone on the air directly from KWOA. They have their own radio system hooked in, and they can provide an announcer to come down if the need be to broadcast directly from our facility, so we have real good communications with that radio station, and since it's our radio, we depend on them very heavily to get the news out when we have a problem and we've used them very often.

They do have a radar system available, and before the meeting, I wasn't quite sure of what kind it was, but it is a Sperry weather radar system, and they have invested about $30,000 in that particular unit, and we're in sort of a valley area down here to where the radar in the Twin Cities here and these other areas just really do not function effectively for our needs.

True, we may not have people that have been trained by the weather bureau for 3 years in the operation of them—radar, but I've been out there—KWOA—on occasion and watched them and they do a real good job, so that's pretty well what I have to say. Our rapport with the news media has been excellent and we're real happy to work with them, no matter what field of expertise we are asked to assist with.

[The statement follows:]

STATEMENT OF LAVERNE HARTMAN, DIRECTOR, NOBLES COUNTY, MINNESOTA CIVIL DEFENSE

Dear Senator Pressler, I am grateful for the opportunity to appear before you today to testify in favor of S880, your bill to extend the hours of daytime only AM radio stations. While Southwest Minnesota is served by many AM radio stations, most of them, 14 in fact, are daytime only AM stations. In my position as Nobles County Minnesota Civil Defense Director, I work very closely with our radio station, KWOA. Our county depends entirely upon KWOA for immediate notification to the public in times of emergency that threatens the lives and/or property of our residents. Our mandated responsibility is to make plans for and implement recovery operations due to nuclear attack, man-made or natural disaster including weather related emergencies.

We have a direct line communications capability, which is operated by our emergency (175 kw) electrical generator. This system is independent of outside electric need in case of power failure. We also, with the total cooperation of KWOA management, have installed a complete broadcast quality two way radio communications system so KWOA personnel can broadcast live from our emergency headquarters within the Nobles County Government Center. I also have used a direct telephone

link to KWOA to transmit messages to our area residents during weather emergencies.

The weather radar system that KWOA maintains at their own expense is of the latest type available and gives our residents accurate up-to-the-minute information about severe weather.

I have witnessed it in operation many times so I can verify that it performs superbly. Since all other weather radar systems are far removed from Southwest Minnesota, mainly Huron, South Dakota; Des Moines, Iowa and Minneapolis/St. Paul, KWOA's weather radar system is a vital part of our weather warning system.

I can tell you from my own experience that weather related information and announcements are of prime concern to the management and staff of KWOA and take precedence over all other information and activities.

I strongly support your efforts to extend the hours of KWOA and the hundreds of other daytime only radio stations in this country. Fulltime stations like WCCO in Minneapolis, while they perform well for their metro area audience, are of little use to us that are many miles away. First, they do not have the time to devote to us in cases of emergency, and secondly, their signal in this area after sunset and before sunrise is not reliable—it fades and is subject to severe interference from natural and man-made sources.

Extended hours of operation for KWOA and other daytime only radio stations would be a definite asset to civil defense and the general public year round, but expecially in the winter when operating hours are so short.

Senator PRESSLER. OK. Well, let me say that I don't want this hearing to come down as a hearing of clear channels versus daytimers because there's room for both of you. We're just talking about the transitional hours. I do very much appreciate Gordon Mikkelson coming down here.

Gordon, you raised your hand. If you want to say something, you may.

Mr. MIKKELSON. Well, whenever you think it's appropriate, sir. I have information for the record that you'd welcome, I think.

Senator PRESSLER. You raised your hand just a minute ago, so go ahead right now because you were responding to something.

Mr. MIKKELSON. I had three different things.

Senator PRESSLER. Go ahead. You can just do it from there.

Mr. MIKKELSON. Taking it backward, I don't like to get into the ratings game where numbers were used. The material I've prepared is from the KWOA's sales statements on file with advertising agencies showing the dominance of that station. They are done, and I'm quoting from theirs, not mine, from transition hours 6 a.m. to 7 a.m., Monday through Friday. They're using Doane Survey, they have in the ad agency. It shows the farms listening. In that market, there are 44 signals, the station says, and it beats everybody. That may be true in the total day but in the transition hour, 40 percent of the farmers named are listening to the distant clear channel, 29 percent are listening to the Worthington station. The next largest share is 16 percent for other stations, so ignoring those, you get down to WNAX and Pipestone. So during transition hours, the general statement does not apply.

I think research people can prove almost anything with numbers, but I'm using his and for the transition hours. That's the data that the ad agencies used for that station to sell advertising in the Twin Cities.

Mr. BILL SANDERS. In answer to your question to the gentleman, Steve, I think, about the blizzard that you referred to, when there were many people killed, we have a full-time meteorologist at our station. We have called—and we are, by the way, a National

Weather Bureau reporting station, official reporting station which is one of two in the United States.

We have called for an investigation of that, and the reason why we have called for an internal investigation within the Weather Service is that we feel that there was a total inadequacy of warning on that. My people were calling it at least 18 hours before it was going to happen. They were not feeding—we don't feed the Minnesota wire. The Weather Service, we felt, was totally inadequate in that situation. And, frankly, they're incompetent in a lot of ways up there. And I just would like that to be put in the record. I think the blame—in answer to your question, the blame for that situation lies solely with the National Weather Service.

Senator PRESSLER. Your statement is in the record.

Mr. MIKKELSON. I have data on that in studying it from civil defense with him.

Senator PRESSLER. Les, go ahead.

Mr. KLEVEN. If I could have about 60 seconds, I'm Les Kleven from Sturgis. We operate two daytime stations, a small company. My wife and I own the company, one in western South Dakota and one in western Minnesota, and we're having a little bit of a problem developing in relationship to the Minnesota property. I'd like to spend just a second or two discussing the daytime preference thing.

Our station in Jackson, MN, was put on the air a little over 3 years ago. It's a large facility, a large investment, four-tower directional to provide service to that farm area in Minnesota and also Iowa. Jackson's a small town, 3,800 people, and the station is on a class II channel which means that while we really applaud your efforts toward getting the extra hours during the transition time, the class II's, I think, are going to be the greatest problem, and in anticipation of that, we feel that we need a FM station on the market.

We've approached that several different ways. It was taken care of recently by the 80-90 that came down. A channel is allocated to Jackson.

Now, I can tell you honestly that our operation there has lost money for 3½ or 4 years, and we're at the point now where it's starting to work, but if a second service goes into that particular market, in other words, if we have a competitor that comes after the FM, our AM can't get on the air until 7 in the morning because of the—even though we have a presunrise authorization because of the class II, we feel we need the FM to adequately serve the market, and I would certainly like to see the Congress provide some push to the FCC to see to it that the daytime-preference thing does happen in small markets where we need that kind of service in order, No. 1, to survive and, No. 2, I don't think either one of us would survive if there was competitive service in that town of 3,800 people.

That's the point I wanted to get to you today, and thank you for your work in the broadcast field. I really do appreciate it personally.

Mr. WYCHOR. Senator, if I might just enter into the record the daytimers here who did not testify. Seven did testify. There are 15 additional daytimers in attendance at this hearing, and they are

Paul Olson from KLEM, LeMars, IA, A.L. Anderson, KBMR, Bismarck, ND, Barb Gretsch from KASM, Albany, MN, Les Kleven who represents KBHB, Sturgis, SD, Doug Johnson, KKOJ, Jackson, MN, Roger Jacobson, KILR, Estherville, IA, Rich Biever, KDOM, Windom, MN, Charlie Rutledge from KXTP, Duluth, MN, Superior, WI, Glenn Olson from KQWC, Webster City, IA, Glenn Pederson, KQAD, Luverne, MN, Larry Graf, KDUZ, Hutchinson, MN, Joe Meyer, KOKK, Huron, SD, E.G. Stangland from KIWA, Sheldon, IA, and Dan Johnson from KUSD, Vermillion, SD, and those people are here this afternoon and have a vital interest in this legislation and they came a long way and they also join me in thanking you for your attention to this subject.

Senator PRESSLER. Let me explain one thing too. I think it's quite important that the daytimers are organized. We have several cosponsors to my bill, and they are Senators Boschwitz, Melcher, D'Amato, Burdick, Andrews, Abdnor, Durenberger, DeConcini, McClure, Heflin, Lugar, and Goldwater.

People might say why didn't the bill just pass? Well, because procedurally it may be held up to some extent by some of the clear channels that are very powerful politically in certain States. They have, of course, their own point of view.

A lot of them have great traditions that they're worried about, for example the Grand Ole Opry station in Howard Bakers' State, and the station in Utah. There are many others. I'm not saying they're doing anything they shouldn't be doing, but the daytimers do have a political battle on their hands to match that kind of clout. Those huge stations in some States are very dominant, but you daytimers have done a good job of organizing. I know there are two sides to every story.

Mr. SKALL. I just would like to note briefly, if I may, that there are some old stories that have been raised time and time and time again in this debate. I think it's time to finally put them to rest.

For example, there are some programs which in this country have become a tradition. Fred Palmer talked about the role of programs on radio. I think it's important to note that, for example, the Grand Ole Opry, while people all across the United States, I'm sure, like to listen to it, new technology has provided far superior ways of getting that programming to people. Indeed, the Grand Ole Opry is now syndicated via satellite in the television technology. There's absolutely no reason why it couldn't be syndicated via satellite in the radio technology as well.

I beg your pardon. I've just been brought up-to-date. It is apparently syndicated by radio or by satellite and many local radio stations could pick up that satellite signal to bring a much clearer, better, crisper signal to their listening audience.

Another of these is the shopworn phrase that the inflexible laws of physics are governing our actions here. I think that finally the Commission has recognized, in paragraph 19 of its order adopted on April 11, that certainly the laws of physics may be inflexible, but their application is indeed flexible. They recognize that is the way they have been applying the laws of physics. Now it can be applied here for post-sunset as well, so that the majority of words like "destruction of sky wave service" and "destruction of all service to people" really don't have a place in this debate any longer.

We have to stop, and just look dispassionately at what we're considering, that is local service. If it should be decided that local service is not as important as the sky wave service, fine. But if it should be decided that local service in is perhaps more important, at least during certain parts of the day, then that is another conclusion that we could draw. It has nothing to do with the laws of physics. Thank you, sir.

Senator PRESSLER. I see one more hand.

Mr. MIKKELSON. This is on civil defense.

Senator PRESSLER. Why don't we put it in the record? I think what we'll do is call the formal part of this hearing to a close, but if anybody in the audience has a question for the record directed to anyone, or if anyone has a statement for the record we'll take care of it. I'm very moved by the large number of people who traveled a great distance to come here. I see someone way in the back of the room who hasn't had a chance.

Mr. BIEVER. I'm Rich Biever from KDOM at Windom, MN. You have made references on numerous occasions, and it's been brought up, this storm back in February. We had six people lose their lives within 3 miles of our town that night. My next door neighbor's 23-year-old son was a mile out of town. He spent the entire night in the car, and he told me later that he spent the entire evening trying to find something on the radio. Unfortunately, he didn't have FM and he never really did get anything that could tell him what was going on. He spent the whole night out there until noon the next day, and I think it should be noted that had we had the post-sunset authority at that time, we would have still been on the air on AM as would have Jackson as would have Worthington, three stations within 25 miles. We had six people die.

Senator PRESSLER. We thank you. By the way, I join in that call for a look into the Weather Service on that and I appreciate what you're saying.

At this point, I'm going to conclude the formal part of this meeting and continue informally. We will take your statements, and we can keep the record open for 2 weeks. Thank you very much.

[Whereupon, the subcommittee was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF DOUGLASS D. CROMBIE, CHIEF SCIENTIST, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

INTRODUCTION

The National Telecommunications and Information Administration (NTIA) is the Executive branch agency principally responsible for communications policy. NTIA on September 14, 1981 petitioned the Federal Communications Commission (FCC) to extend the hours of operation permitted "daytime-only" AM radio stations. There are more than 2,000 such stations nationwide. Particularly in less well-populated and rural areas, "daytimers" constitute a primary source of local news, information, and public affairs radio programs. Because of the potential interference daytimers could cause were they to broadcast at daytime strengths during nighttime hours (when signals carry farther), the FCC has placed severe time and power limits on daytimers' operation. The effect of these limitations has been to lessen the diversity of programming choice available to residents of rural communities during pre-sunrise and post-sunset hours. These limitations also affect the profitability of daytimers as they reduce the service stations can provide during commercially critical "drive-time" morning and evening hours.

SUMMARY OF NTIA VIEWS

In comments to the FCC and in earlier testimony before this Subcommittee, we have stated that the FCC's daytimer restrictions and the engineering procedures they embody are more strict and less sophisticated than the current state of radio frequency management warrants. See Comments and Reply Comments of NTIA in FCC Docket No. BC 82-538, filed January 13 and February 14, 1983; Statement of Acting Assistant Secretary Susan G. Stuebing on S. 880 (June 8, 1983). We have essentially recommended that the FCC allow for increased operating hours (or operating power) in instances where daytime-only stations can show that such changes would not cause interference to existing full-time radio stations. In determining whether interference results, we have also recommended the use of diurnal curves to calculate the signal strengths and protected signal contours of both the daytime and other, protected stations. Such calculations, of course, are familiar to and well within the competence of virtually any radio frequency engineer. We will confine our remarks on this occasion to this subject although we are still of the opinions expressed in our earlier testimony.

RECENT FCC ACTIONS

As the Subcommittee knows, last fall the FCC acted on the NTIA petition and announced changes in its daytimer rules. This action amended section 73.99 of the FCC's rules—

(R)elating to extended hours of operation for AM stations. It enlarges the categories of Class II full-time stations that are eligible for pre-sunrise operating authority; it allows most Class II and Class III daytime-only stations for the first time to operate during the post-sunset period; and, finally, it adopts diurnal curves for use in calculating interference protection requirements during the pre-sunrise and post-sunset periods. 48 *Federal Register* 42944 (September 20, 1983).

Subsequently, the FCC made calculations of the power allowed each daytime station during the extended operating hours. In some instances, the power increases allowed were very small.

DISCUSSION OF THE FCC ACTION

One reason why the power allowed some daytimers during the extended operating hours may be small under the FCC's approach is that the new rules allow the use of diurnal curves only to calculate the daytime station's signal strength. The diurnal

curve may not be used to calculate the position of other radio stations' protected contours as they expand from the distance at sunset to the greater distances from the protected transmitter that occur well after sunset. As the Commission noted in its First Report and Order—

We are, therefore, adopting rules which assume that the 0.5 mV/m—50 percent contour of a Class I station is fully developed after sunset occurs at the Class I transmitter site. *Id.* at para. 40.

A given station's protected contour—the area within which its signal is protected from other stations' signals—is smaller in the hours immediately after sunset than it is several hours later. There is a transition, with the contour gradually expanding as the hours become darker. Under the FCC's recent rules, however, this transition is not taken into account. As a result, the daytime broadcaster typically is required to accord full-time stations much more protection (by reducing power out-put or ceasing operations) than physical conditions warrant. The effect is to foreclose the daytime station from serving its community during "twilight" hours when, to do so, is unlikely to cause nonlocal stations any interference.

We recommended that the FCC's daytime rules take into account the fact that the actual position of the protected contour will vary during the transition period between sunset and the so-called "dark hours." The FCC rejected this approach, however, on the ground it would be "too complex and impractical to implement." Our approach, of course, lacks the simplicity of the FCC's. We believe that our more complicated approach is warranted, nevertheless, because it would make possible more hours of operation by the daytime broadcasters. Ease of administration is a legitimate regulatory consideration. We believe, however, that facilitating expanded service by daytime stations in this instance should take higher priority.

The perceived complexity of our approach can be reduced by making use of curves already contained in the FCC's decision. By using the alternative form of diurnal curves such as those shown in Figures 6, 7, and 8 of the First Report and Order, any complexity due to including the gradual movement of the protected contour can be greatly reduced. (Figures 6, 7 and 8 of the First Report and Order were drawn specifically for the case of station KOA, Denver, on December 15, for three different azimuths.)

The difference between the approach we urged and that adopted by the FCC is indicated in the following example. Using the FCC's approach, a daytime station would have to base its operations on a protected contour as that contour is assumed to exist at SS+2.0 hours. Using the curve set forth in Figure 6, for instance, the 0.5 mV/m—50 percent skywave contour at SS+2.0 hours occurs at about 710 miles on a bearing of zero degrees. This would be the distance of the contour from the protected transmitter that is assumed to exist from sunset on, according to the FCC's rules.

In fact, however, immediately after sunset the 0.5 mV/m—50 percent skywave contour to be protected does not exist at any distance, much less 710 miles. What the FCC's rules, in effect, thus accomplish is to draw a circle 710 miles in radius about protected transmitters and to require other stations not to operate so as to cause interference within that area, despite the fact that the protected transmitter is not providing appreciable service, at least for some period of time after the protection requirement goes into effect.

Under our approach, one would take into account the fact that the protected contour appears gradually. By interpolating between the SS+0.5 and SS+1.0 hours curves shown in Figure 6, for instance, it is apparent that the 0.5/mV/m—50 percent contour does not occur until about 40 minutes after SS at the protected transmitter. The contour is then located about 380 miles from that transmitter. At SS+1 hour, the contour is about 620 miles from the transmitter, and it moves farther away as time progresses.

To take a concrete example and show what this means, consider the following: under the FCC's rules, a daytimer located north of station KOA would be required to accord that station maximum contour protection at sunset. Under our approach, however, the daytimer at 40 minutes after sunset would have to protect only a 380, not a 710 mile contour. In other words, the station would be able to provide substantially more service to its local community, and with virtually no adverse technical effects. It must be noted, however, that the process of using the diurnal variation to calculate the daytimers' allowed power (as described in the First Report and Order) must still be applied. This is because the changing solar illumination affects both signals.

CONCLUSION

Our primary goal throughout our involvement in daytime radio proceedings has been expanding service to the public. We believe that is technologically possible to do so, and without any significant increased interference. The approaches NTIA has outlined may seem complex to laymen but are well within the competence of professional radio engineers. We are continuing to monitor developments with respect to daytimer rules at the FCC and stand ready to provide the Subcommittee with whatever technical assistance may be required.

STATEMENT OF R. MARK GRADY, GENERAL MANAGER, RADIO STATION WHNI, MEBANE, NC

Gentlemen, Please allow me to preface this testimony by thanking the members of the Communications Subcommittee for considering the plight of the daytime radio stations in America. This consideration has placed a new hope in our unique branch of the broadcast industry.

At one time, the present Federal Communications Commission rules and regulations served a valuable purpose to the people of our country. These regulations insured the population that did not have a broadcast facility in their market could have some form of radio service from a station somewhere in the country. Today, however, the entire structure of the broadcast industry has changed. First of all, there are very few communities, if any, that do not either have a broadcast facility or are served by one specifically targeting their community. As a result, the need for the extreme regional broadcasting, such as the clear-channel station, has lessened.

It has been my understanding that a radio station is commissioned to do one thing: serve the community. Keeping that in mind, I feel that the present F.C.C. regulations prevent small radio stations, such as WHNI, from performing that important task.

A profile of the community that is served by the radio station that I manage is a good example of how the present structure prevents the local community from being adequately served.

Mebane, North Carolina is a small community of approximately 3,000 people with a surrounding population of over 10,000. The only radio station licensed to Mebane is WHNI. It is a 1,000 watt daytimer with 500 watts allocated during critical hours. Near to Mebane is Hillsborough, North Carolina, a community that looks to WHNI as its only daily local news source, as does Mebane. I assure you that if a major news story occurs, such as a murder or other such regional or national interest story, it will be covered by a regional station. But, I also assure you that the regional stations have no interest in the daily local events that constantly occur in every community no matter what the size. News of the local people doing their local things is something that only a local radio station would be interested in handling. And understanding that our primary job is to serve the community, it is our responsibility to cover these things.

Under the present regulations, WHNI signs on the air at a pre-set-by-the-FCC local sunrise time. In the summer months that is as early as 5:45 AM and in the winter months it is as late as 7:30 AM.

These late winter month sign-on times are an excellent example of how WHNI is prohibited from properly serving the community. Let us take for example the 7:30 AM sign on which occurs in October and January. In the event of inclement weather, which does occur in our area, the decision to close the schools or industries in our area are made before WHNI even signs on the air. This prohibits us from distributing this information to the community. School busses, for example, begin running before 7:00 AM therefore forcing residents in Mebane or Hillsborough to get the information from another source other than the station that is suppose to be serving them. Sometimes this source ends up being the clogged telephone lines of the local school officials or town officials.

There are stations on the regional level which do broadcast limited information on our school closings, but there are two points to address to that:

(1) These stations, because of their regional status, do not broadcast the small businesses or industries in the area that must close. Time prevents them from concentrating on individual communities.

(2) If listeners are forced to turn to a regional station for this local information because their local station is not on the air, the chances of them returning to their local station is slim. It is simply inconvenient.

In addition, it is hard for the local listener to keep up with the constant change in sign-off and sign-on times. They change every month, sometimes even twice a month when the switch to or from daylight savings time occurs.

It is this inability to serve the local listeners with the information they need and want that has me concerned about the future of radio in markets like Mebane. With more stations in larger, surrounding communities coming on the air or being granted power increases, what is to happen to the station that is suppose to serve their one community?

We are asking only one thing. WHNI wants to be able to come on the air and leave the air at a consistant, reasonable time. Although it would be nice, we are not asking for 24-hour service. We would like just to be able to come on the air no later than 6:00 AM and leave the air no later than 6:30 PM or at sunset, whichever is later. We also ask that sufficient power be allocated in the form of watts to adequately cover our normal audience. In our case, at least 250 watts.

The old rules protecting those big, clear-channel stations are very outdated. In our case, KYW in Philadelphia, the clear-channel station on our frequency of 1060 kilohertz, can in no way serve Mebane, North Carolina with the local information our community wants and needs.

If these stations are concerned about the loss of old traditional services and one comes to mind, the Grand Ole Opry in Nashville, I wish they would consider satellite delivery of these services to stations across the country. I honestly don't think they would lose one bit of tradition. I do believe they would gain one heck of an audience.

To summerize, WHNI wants to serve our community. Under the present regulations we are just not able to do so properly. We need your help, gentlemen, and hope that you will respond with concern about the local communities that need and want our services.

Thank you.

STATEMENT OF BARBARA GRETSCH, OWNER-MANAGER, KASM RADIO, ALBANY, MN

KASM went on the air as a daytime only radio station with 500 watts of power in November of 1950. Since that time we have applied for and received a power increase to 1000 watts.

At the time the station was dreamed about until it finally became a reality, my father, Mr. Wm. Blattner and three other gentlemen realized the need for a radio station to serve the large rural area of Central Minnesota. Through the years they struggled with this daytimer, making it one of the most informative radio stations in Central Minnesota. KASM has a history of serving the people well, with reports daily on farming, meetings, household information, guests who are contributors to much helpful information and knowledge to the people of this area. When my father retired he sat down and talked to us 6 sisters about KASM hoping we would share this dream of his. Now we are, and along with three other gentlemen the 6 of us have taken an active part in keeping KASM a station that is the INFORMATION STATION for the people that it serves. We believe in service, and when we have to cut back our power to 45 watts at 4:30 in December it hurts. It hurts because that is when the school buses are on the road, and in the winter in Minnesota there are many problems with school buses. Many times we have given bus failure announcements just before going off the air at 4:30, and now with 45 watts we give the announcements until 6, BUT, we worry just as much now, because, we know many of our listeners cannot hear us when they need to, and in the early morning we sign on at 184 watts and we have the very same problem. It is just not enough power.

I would really like someone to show me some hard evidence that 500 watts presunrise and post-sunset would interfere with another radio stations primary coverage area. I do not believe it would. And, I do believe 500 watts would help us do the job we need to do to keep our public aware of what is happening with weather, and schools in the early morning and early evening hours.

At the present time, we have an application in with the FCC for a 3000 watt FM station on 105.5. We feel if the FCC grants us this it will certainly help. . . . But, at the same time I know that there are many people in our area that no longer have service when we go off the air or have to cut back to 45 watts in the late afternoon, and sign on at 184 watts in the morning. People are creatures of habit, and KASM is off the air, they just do not listen to the radio. This is one reason I feel we need to stay on the air longer and at a reasonable power level.

KDUZ, AM 1260, FM 107 STEREO,
Hutchinson, MN, April 19, 1984.

Hon. LARRY PRESSLER,
Communications Subcommittee of the U.S. Senate,
Committee on Commerce, Science, and Transportation.

DEAR SENATOR PRESSLER: KDUZ Radio strongly supports Bill S-880 which will offer daytime broadcasters additional hours. Radio stations are public servants. This bill will enable the daytime broadcasters to better serve their listeners with much needed information.

Both Minnesota and South Dakota have severe storms both summer and winter. While we do have the National Weather Service we cannot fully rely on them, and I feel they are trying to do the best job they can. For example, a tornado struck Hutchinson last summer in the evening, we had no warning. The sirens were sounded at the time the tornado struck. While damage was extensive, fortunately only minor injuries occurred.

We have had other cases of our area spotters sighting tornados before they were detected by the National Weather Service. Again I feel this is not the fault of the weather service because it takes only seconds for a tornado to strike.

The point is, we're prepared to give the information on a local basis. We work very close with the McLeod County Civil Defense, the sheriff, and local law enforcement agencies. We monitor the police, the sheriff, and Fire Department. We have installed a direct-line phone between the sheriff's department in Glencoe, which is 16 miles from Hutchinson. This phone is used only for tornados or other severe disasters. We have installed our own 2-way radio system for better communication between our on-the-scene cars and the station. We have installed an emergency generator to power our AM station in the event of power failure, which occurs rather frequently during storms.

While this all adds expense, we owe this to our listeners. S-880 will enable us to give our area residents the coverage they need at vital times, yet I feel it will not interfere with the clear channel stations.

With the power of 64.7 watts granted to us originally by the FCC, we would not be able to offer storm information to Glencoe 16 miles from Hutchinson.

I have enclosed a copy of a letter from Mr. Elf Austad, Mayor of Glencoe. During the day we serve Glencoe. Having a studio there, we do a daily 15 minute broadcast from there as well as other programming. This letter with the ones from McLeod County Civil Defense Director, Mike Monge, and Sheriff, Duane Kopesky, which I gave to you in Sioux Falls, shows the county does need evening hour local AM radio coverage.

Thank you for your Bill S-880. We strongly support your interest in enabling us to better serve our listeners. For severe weather conditions, this could very well be a life-saving bill. The price of life is immeasurable.

Thanks again.

Sincerely,

LARRY J. GRAF,
General Manager.

Enclosures.

MCLEOD COUNTY LAW ENFORCEMENT CENTER,
Glencoe, MN, April 9, 1984.

Mr. LARRY GRAF,
KDUZ Radio, Highway 15 North,
Hutchinson, MN.

DEAR LARRY: I would like to thank you for informing me about the decision that enables KDUZ to remain on the air two hours after sunset. While I am very pleased with this information, I am also very concerned that you will only be able to broadcast with 64.7 watts during that time. As the County Warning Point for all cities in McLeod County, my office and the Office of Emergency Services has worked hard to educate the public to listen to KDUZ for our emergency information and instructions. Because you are the only radio station in McLeod County, we rely on you completely to inform the public about severe weather. The period of sunset is often the most critical when it comes to severe weather and with that low of a wattage to broadcast the warning. I fear that much of our county will not receive the warning. Therefore, I am requesting that you pursue the proper channels to keep your wattage at 500 watts and ask that I be allowed to contract whomever is responsible for that decision so that I can relay my concerns to that agency.

Thank you for your considerations and please keep me updated about this situation.

Sincerely,

DUANE E. KOPESKY,
McLeod County Sheriff.

CITY OF GLENCOE,
Glencoe, MN, April 9, 1984.

Mr. LARRY GRAF,
General Manager KDUZ–AM,
Box 10, Hutchinson, MN.

DEAR GRAF: The City of Glencoe supports your efforts to extend your broadcast hours into the evening. This would be beneficial to Glencoe area residents because it would provide them with up to the minute weather information.

We strongly urge that your station be granted enough wattage to service the Glencoe area into the evening hours.

Sincerely,

ELF AUSTAD,
Mayor.

COUNTY CIVIL DEFENSE OFFICE,
MCLEOD COUNTY COURT HOUSE,
Glencoe, MN, April 10, 1984.

Mr. LARRY GRAF,
KDUZ, Radio, Highway 15 North,
Hutchinson, MN.

DEAR LARRY: I received your letter today about the decision to allow KDUZ to remain on the air for an extra two hours after sunset and while I am pleased with that decision, I am also very concerned about the fact that you can only transmit at 64.7 watts. The McLeod County Warning Plan is very explicit to all 30,000 residents in the county that they listen to KDUZ for all emergency information, including tornadoes. I have distributed thousands of pamphlets throughout the county with definite instructions to listen to KDUZ bcause you are the only radio station in the county. We rely on you completely to give the warning to the public and during that two hour period after sunset, only a small portion of the county could receive the warning if you are limited to 64.7 watts. I feel that the F.C.C. must be made aware of this problem so that they could reconsider giving you the 500 watts necessary for warning our citizens. I would appreciate your giving me authority and information on how to contact the person necessary to plead our case and making them understand how completely we rely on KDUZ during an emergency, including the extra two hours which are so important during the severe weather summer period.

Thank you for your time and assistance with my request and please keep me informed about this situation.

Sincerely,

MIKE MONGE,
Director, McLeod County Emergency Services.

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